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GOVERNMENT

# ENVIRONMENTAL MANAGEMENT PLAN—SAN FRANCISCO

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## HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON

GOVERNMENT OPERATIONS

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

JUNE 23 AND 24, 1978

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## ENVIRONMENTAL MANAGEMENT PLAN— SAN FRANCISCO

FRIDAY, JUNE 23, 1978

HOUSE OF REPRESENTATIVES,  
ENVIRONMENT, ENERGY,  
AND NATURAL RESOURCES SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*San Francisco, Calif.*

The subcommittee met, pursuant to notice, at 10 a.m., in courtroom No. 12, Federal Office Building and Court House, San Francisco, Calif., Hon. Leo J. Ryan (chairman of the subcommittee) presiding.

Present: Representatives Leo J. Ryan, and John E. (Jack) Cunningham.

Also present: Representative John L. Burton.

Staff present: Norman G. Cornish, staff director; David A. Schuenke, counsel; Dan Cook, chief investigator; and Thomas G. Morr, minority professional staff, Committee on Government Operations.

Mr. RYAN. The House Environment, Energy, and Natural Resources Subcommittee will come to order.

I would like to welcome those who have come to the hearings, which will commence this morning. Both today and tomorrow we will be examining the environmental management plan, which has been adopted by the Association of Bay Area Governments.

Before we begin our hearings, I would like to make a few introductory comments. First of all, let me introduce my fellow subcommittee member who is here. Representative Jack Cunningham, from the State of Washington, is on my right. We are also accompanied by various members of the subcommittee staff.

Since many of you have never attended a congressional hearing, a word or two on how the hearing is conducted might be helpful. Our hearings, whether they be in the field or in Washington, are governed by the formal rules of the House and its Committee on Government Operations, of which this subcommittee is a part.

The list of witnesses is prepared in advance, so that we can properly plan a logical presentation of testimony and questions. Unfortunately, we may not be able to hear everyone who would like to testify at this time. Therefore, if there is anyone present in that category, we will be pleased to keep the record open for 2 weeks, after the close of this hearing tomorrow, for the submission of written testimony by anyone who is here and it will be included in the record.

Incidentally, we have found that written testimony whether it's delivered here, or not, is oftentimes very valuable and would be carefully considered, if it's submitted within that 2-week period.



The questioning of witnesses today who will appear will be limited to members of the subcommittee.

Now, we are a factfinding body on behalf of the U.S. House of Representatives, and on behalf of the Congress, itself. And, that's why we are here today.

We want to learn about the environmental management plan, which has been adopted by the Association of Bay Area Governments.

[The environmental management plan recommendations are retained in the subcommittee files.]

Mr. RYAN. We want to examine the process by which that plan was adopted. And, I might point out, that in spite of the many requests from people within various groups here in the bay area to hold this hearing early, before that plan was adopted, we did not do so by choice. We wanted the Association of Bay Area Governments to be able to present the plan to have it voted upon before we took any kind of action here. We want to review the roles played by locally elected officials, by community business and labor leaders, by citizens and public interest groups, and by the public in the development and adoption of the plan.

We want to know if the Federal environmental requirements permitted the local communities sufficient latitude to fashion a plan which the communities wanted, and which they perceive to be in their own best interests.

We want to know the involvement of Federal agencies in the development of the plan. I, personally, have some rather grave reservations about the 208 plan, because I am concerned about what I believe to be a loss of local control, local determination as to how a particular community spends money; or, is required to spend money, local money, to follow Federal mandates. We want to know if the appropriate Federal agencies assisted in the planning and were supportive of the local communities' efforts.

We also want your perception of what this plan will mean to the community. We want your assessment of how the implementation of this plan will affect environmental quality, and the social and economic fabric of the community.

The answers to these questions are important, not only for the San Francisco Bay area, but for many communities all across the Nation which must contend with the environmental requirements of the Federal law, now referred to as the section 208, or the environmental management plan.

I am also concerned, personally, with what I perceive to be a lack of interest on the part of the Departments of Transportation and Housing and Urban Development, in working on this kind of plan.

It seems to me an anomaly that we can have the Environmental Protection Agency, in particular, pushing so hard for clean air and water, when the policies of the Federal Government for the last 30 years, which allowed for the construction of all kinds of Federal highways; for the construction all kinds of housing, with Federal subsidies and Federal loans; and which allowed, therefore, all kinds of people, all across the country, to move out of the cities and leave them destitute; move into suburban areas, and create their own kind of pollution 30 years later. And, now, they are there, to find a new generation of Federal officials saying: "Now, that you are out there, we got you again.

And, now we are going to fine you, if you don't do what we tell you from Washington." To me, that's a contradiction which simply cannot be ignored by those who have been given some kind of authority here.

We hope that through these hearings other communities may learn from our experience here in the bay area. This is, I am told, the first effort anywhere in the country to reach this particular point in following the mandates of section 208.

With that in mind, we will start off this morning with a presentation by the ABAG staff, led by Mr. Dean Macris, the associate director. Because the environmental management plan is large and complicated, we want to devote as much time as necessary to an understanding of the major components of the plan itself, the planning process, the basic Federal mandates to which the plan responds.

And, I would like to ask Mr. Macris, when he comes up, to please be certain to leave enough time for Mr. Cunningham, and the staff and I to ask questions about the plan.

Mr. Cunningham, do you have any remarks?

Mr. CUNNINGHAM. Mr. Chairman, I really don't, other than to publicly applaud you again for your continuing leadership in directing the investigations of this subcommittee and the Government Operations Committee, in general. And, I am simply here with you to listen and learn.

Mr. RYAN. Thank you, Mr. Cunningham, I appreciate that.

Mr. Macris.

I want to add, while Mr. Macris is coming forward, I would like to announce here that it is a known procedure in conducting investigations by the Committee on Government Operations and its subcommittees, to swear in all witnesses who appear before the committee.

So, if you will raise your right hand.

[Witness sworn.]

Mr. RYAN. Be seated, and give your name for the record.

**STATEMENT OF DEAN MACRIS, ASSOCIATE EXECUTIVE DIRECTOR,  
ASSOCIATION OF BAY AREA GOVERNMENTS; ACCOMPANIED BY  
GEORGE HAGEVIK, DIRECTOR OF POLICY COORDINATION**

Mr. MACRIS. Mr. Chairman, Congressman Cunningham, my name is Dean Macris. I am the associate executive director of the Association of Bay Area Governments. And, I am appearing here in behalf of Mr. Tranter, who is out of the city, and who apologizes for not being here today.

Mr. Chairman, we are also very pleased that you agreed to hold these hearings here in the bay area, and to followup on San Mateo County Council of Mayors and our own association's request that these hearings be held.

I am just at this point going to tell you briefly the status of the plan. On June 10, the association's general assembly nearly unanimously approved the plan that's going to be described to you today.

We think that this was a major achievement around the country in environmental management.

Now, obviously, the plan that was approved does represent a great number of compromises. The staff's job initially was to demonstrate to the more than 500 elected officials in the bay area, city councilmen,



and supervisors, what it would take to meet Federal environmental standards.

Our initial draft plan arrayed a number of choices in air quality, and water quality, and solid wastes, precisely, the kinds of control measures that were necessary to meet the Federal and State standards.

And through that process the elected officials made a determination of how to adjust the plan to meet local needs. Now——

Mr. RYAN. Mr. Macris, may I break in?

Mr. MACRIS. Yes, sir.

Mr. RYAN. Just to ask you, on a procedural matter, how much time do you think it will take to make your presentation? Because, I'd like to see if we can't work this out, so we can have sufficient time to ask questions about that.

Mr. MACRIS. We'd hope to limit our description of the plan to about 1 hour. We can, maybe, even shorten that, if you'd like.

Mr. RYAN. I would like you to shorten it to, say, half an hour to 45 minutes, if you could. Because, we have quite a few questions we'd like to get in.

Mr. MACRIS. Sure. Fine. Well, I'll then ask the staff that's going to make the presentation to try to confine the presentation to that time.

Mr. RYAN. All right. We want just the broad outlines.

Mr. MACRIS. Sure. Absolutely, sir.

Now, again, let me say, that we feel that the plan that is now adopted does meet the Federal and State requirements for environmental protection.

The next step in the process is that the State water resources control board and the State air resources board will act on the plan and forward it to EPA. The only precise date we have on that is that on July 24, the State water board is expected to hold a hearing on it. We have not heard from the State air board on what day they will be acting on the plan.

But, after the State forwards the plan to the EPA, the EPA has, by law, 120 days to finally act on the plan. And, then we assume that at that point the plan would have the force of Federal law.

Now, if I could turn at this point to Dr. George Hagevik, of our staff, to give you a very quick overview on how we organized procedures that led to where we ended up on June 10, a few weeks ago. And, then we'll ask Dr. Gene Leong, the head of our air quality effort, and then John Davis, who headed our water quality program, to make their remarks on what the plan contains.

Mr. RYAN. All right. Before he begins, may I, just for clarification—when you say you haven't heard from the State air resources board, what do you mean by that?

Mr. MACRIS. Well, in the sense, sir, that we have heard from the water board that they intend to—they've already held one workshop, as a matter of fact, on their portion of the plan—act on the water quality portion of the plan on July 24. We have not heard the same information from the State air board, as to what day they plan to act on the plan. Which, then, in turn, the plan is forwarded to the EPA for their action.

Mr. RYAN. Is there any significance to that?

Mr. MACRIS. Sir, I couldn't attribute anything to it, except that they still have some questions they may want to ask us; or, that they have their own workload that doesn't allow us to be scheduled yet.



Mr. RYAN. Have you and those boards had any comment, or any input, on the draft so far?

Mr. MACRIS. Well, we have all throughout the process, sir. They have informally met as a program review board, in which each of those State agencies have had representatives. And, they have commented throughout the process.

Mr. HAGEVIK. My name is George Hagevik, and I am the director of policy coordination at ABAG.

I'd like to run through the first 3 pages of the light blue covered document I believe you have before you. That covers quickly the history of this program that started about 3 years ago.

The environmental issues that were of considerable concern to the elected officials on the ABAG executive board, about 3 years ago, were the five listed on page 1.

Even though we had spent a great deal of money on sewage treatment facility construction in the bay area, a number of nagging water quality problems remained. And, these were identified as being tied to surface runoff during the wet season of the year.

This was very much in keeping with the requirements of section 208 of the Federal Water Pollution Control Act, which required surface runoff planning.

We also saw, even before the drought, that regional water supply demand might outstrip the supply of water coming into the bay area. And, the executive board thought this was worthy of study.

Clearly, the air quality problems in California are recognized as the most serious environmental problems facing us. And, there was a clear need to address, particularly, the photochemical oxidant problem.

There's also no question that in the bay area we had been continuing to rely heavily on sanitary landfills for disposing of our solid waste. And, the elected officials realize that eventually we are going to have to move to a more regional approach that would deal with siting of hazardous landfills, but also getting extensively into resource recovery that we were not able to.

Finally, we realized that all of these environmental problems were related to each other. If you tackled one, you would affect another. For example, if you implemented sophisticated air pollution controls, took waste out of the atmosphere, you'd be depositing them into your water bodies, or your landfills.

We also realized that these various governmental programs were going to cost locally elected officials and the taxpayers a great deal of money.

The historical approach in California, as you know, has always been to take the single-purpose approach. We have the coastal commissions, the Bay Conservation and Development Commission, the air pollution control districts, the regional water quality control boards, all going after a specific problem, more or less, treated in isolation from each other.

I know Congressman Cunningham is aware in the State of Washington, where I am also from, that there is a State department of ecology that is concerned with most environmental issues. In California, there are at least five different agencies, more or less independent, who treat various environmental issues.

So there was, again, considerable concern among the locally elected

officials in the bay area to try to tie these programs together, and to look at them at one time.

At the same time there were Federal mandates that we responded to. Of course, the major one was section 208 of the Federal Water Pollution Control Act. The ABAG executive board sought the designation as the 208 planning agency for the bay area, along with about 175 other councils of governments across the country, about 3 years ago. And, we received that designation from the State water quality control board and EPA.

At the same time the Clean Air Act required air quality maintenance planning. It seemed, at that time, that you should not have one policy body of elected officials looking at water quality planning, with all of the requirements for public participation, analysis, and what have you, another policy body of elected officials—maybe, the same people—looking at just water quality.

The third requirement was that the California Legislature did pass legislation making ABAG the regional solid waste planning agency for the bay area. And, again, the executive board thought that these three programs should be carried out in a related fashion. And, this was the decision to set up the environmental management task force, approximately 3 years ago, to carry out these planning efforts.

In sum, it was a feeling, at the local level, that there were so many Federal and State planning programs carried out in isolation; that they should be related.

And, also, a recognition, I believe, from EPA, that their various planning mandates should be related in some fashion. And, I think it's fair to say, that in the 3 years since this decision was made, that EPA has moved more strongly in the area of pulling their various programs together.

Mr. RYAN. I hesitate to break in.

Mr. HAGEVIK. That's all right.

Mr. RYAN. If it interrupts your continuity, I wish you would say so.

One of the problems which it seems to me is inherent in this kind of effort—as laudable as it is to clean up our air, and clean up our water—is the fractioning of effort that exists. Not just on a vertical basis between the city council, and the county supervisors, and ABAG, and the regional, and the State, and then the Federal; but, also, on a lateral basis where Macy's doesn't talk to Gimbel's; where EPA doesn't talk to Interior, Fish and Wildlife; and, Fish and Wildlife doesn't talk to Transportation; and, Transportation doesn't talk to HUD.

It's ironic to me that we can have a limit set of 55-miles-an-hour in the Department of Transportation, and still be encouraging to recently passed legislation the acquisition of parks and lands that were so far away, if we were to follow through in either direction, we'd have to get rid of either the 55-miles-an-hour and quit saving gas, or quit buying parks that are so far away; that if you want to save gas, you can't use them, because they are too far away.

Now, I wonder in connection with this environmental management plan, which is the most significant effort made in the history of this country to try to get local school boards, local city councils, local county supervisors to do something together. Almost saying, whether you like it or not.



I wonder the extent to which ABAG has worked with DOT and with HUD, in particular. Not just in asking you this question. But, for those who will be witnesses later, I want to know what the Federals, themselves, have done to coordinate their own efforts to achieve some kind of better quality.

Mr. HAGEVIK. Well, I'll just respond very quickly to that point.

I'd like to say, initially, that councils of government probably exist because of the great variety of planning programs. I guess, the analogy is that we are sort of like in the middle of an hourglass. At the bottom you have all local governments that we represent. And, at the top you have, not only the EPA programs, but all the other Federal agencies. So, we spend as much time in coordination activities at the regional level as we do in planning work.

There's no question that there is a great diversity of Federal programs. The only example I can point to right now, of the Federal Government pulling its act together, is in President Carter's urban strategy. Where there have been task forces in various Federal agencies trying to pull together their various programs.

We have a very difficult time relating to all the DOT and EPA programs because they are so diverse.

I can't respond more than that, except to say, that it's, indeed, a problem that we recognize. But, it's difficult for us to respond, except to pass a resolution requesting Congress to pass legislation to require more coordination.

I'll just go on then to—

Mr. RYAN. Please do.

Mr. HAGEVIK. I'll just go on to the remaining two sections that I have here, to keep my three sections short.

On the next page, discussing organizing to prepare the plan:

The environmental management task force was set up by the ABAG executive board to be composed of a majority of elected officials. But, also to include affected interest groups, and public interest groups, including labor unions, the business community, the Sierra Club, what have you, even senior citizens, and agricultural interests.

They felt that we should have a broadly based policy body to make the decisions that would affect most every person in the bay area.

And, I think as you'll see, the draft plan went through a series of modifications as a result of decisions by this group.

It was a plan that the general assembly could live with. I think that in the final analysis you would have to agree that this task force approach was very effective in including the interest groups who were concerned about environmental control and the economic impacts of various measures.

We did involve a great variety of special purpose agencies in the region, because they did have powers to implement—the same agencies that I referred to, metropolitan transportation commission, and so forth.

Mr. RYAN. May I ask a question at that point? Now, you say on that page: "Organizing to prepare the plan. Formation of broadly representative policy body." Who was the initiating force, the agency? Was the ABAG?

Mr. HAGEVIK. That's correct. We received the funding.

Mr. RYAN. And, where did you get the authority to do so?



Mr. HAGEVIK. The State water resources control board designated ABAG as the 208 agency in the State of California.

Mr. RYAN. And, they, under law, the State water quality control board was the agency to pick up the ball and run with it, according to the Federal act?

Mr. HAGEVIK. That's right. EPA also had to concur in that decision.

Mr. RYAN. Acting for the Governor?

Mr. HAGEVIK. That's correct.

Mr. RYAN. So, in effect, the Governor is passing on his authority to—about three times down the road—to ABAG, itself, and its staff to get this thing organized.

Mr. HAGEVIK. That's correct.

And, the ABAG executive board, therefore, took upon itself the responsibility of setting up this special task force to carry out this planning—advisory task force to itself, to carry out this plan.

Mr. RYAN. So, the reason I bring this point out is because I want to emphasize it later on when we have city and county officials who are testifying.

I want to know, in specific, from them in their testimony whether they are comfortable with this particular procedure. And, it's extremely important to have them give the best and most accurate response they can. Because, this kind of process is going on in Sacramento, that I know of; it's going on in Los Angeles, that I know; it's going on in Miami; it's going on in Pittsburgh; it's going on in Cincinnati; it's going on in Chicago; it's going on everywhere there's a metropolitan area. And, we're first. And, if the law needs to be changed, or modified, or done away with, it's time we find out before it's too late.

Mr. HAGEVIK. We did have involvement on the task force of these implementing agencies. Again, I don't have to go over the list of them. But, they did participate on the task force with an elected official from the policy body. And, the staffs of these agencies did participate in actually preparing the plan.

Also, we had a very large public involvement program that emphasized both the general public and the locally elected officials. I believe you and I were at the same meeting at the council of mayors in San Mateo, when we were discussing the plan. I think you heard about it very forcefully, for the first time.

We made an extensive effort to deal with locally elected officials and have them make the key decisions. In a region our size that was a difficult effort. But, I think we did attract their attention. We attracted your attention, too.

Mr. RYAN. Well, yes, you did, as a matter of fact. That was my first sort of realization that it had finally gotten that far down the road. But, having attracted the attention—this is like the 2 by 4 between the ears of the donkey. And, I think there has been reference to that used lately in connection with proposition 13.

What I am concerned about is some of the reaction I got at that meeting of the San Mateo County Council of Mayors, which was not particularly friendly.

Now, you can say to your satisfaction, at least, from what you've been able to see, that local communities were involved and actually had a substantial amount to say, without any kind of significant or overriding pressure from the Federal Government or the State government?

Mr. HAGEVIK. Well, I can't agree to that entirely. I would say that there has been a great deal of concern among our locally elected officials about the sanctions available under, primarily, the new Clean Air Act and, to a lesser extent, under the Federal Water Pollution Control Act.

Mr. RYAN. Now, that's the first point I'd sort of like to pin to the wall for a comment for later on, all through these 2 days of hearings.

I have heard substantial individual complaint to me from elected officials about being told that if you don't do this, it will get worse because the Feds will treat you rougher than we will. I don't know whether this is true, or not. But, now, we are not talking about sort of hearsay comment, circumstantial kind of thing. We are talking about direct comments. And, I want to hear from you; I want to hear from those who come before this particular subcommittee, whether or not—I am going to ask now. Whether, or not, you are aware of any specific comment made by Federal or State officials? I am talking now about at the Federal level—from the Environmental Protection Agency, from any Federal agency, as such—or, from any State agency, as such. That you'd better go along with this, or else we'll come in and it will be much rougher on you than this. Can you think of anybody who has said that to you?

Mr. HAGEVIK. I would say that in terms of comments from Federal agencies—in this case, it's primarily EPA—that the comments, either in oral or written form, were a restating of Federal legislation, verbatim, reading sections of—

Mr. RYAN. With what meaning to be read into it, as far as you are concerned?

Mr. HAGEVIK. That there are sanctions written into the Clean Air Act that are available to the EPA Administrator if he makes a finding that a plan under the Federal Water Pollution Control, or the Clean Air Act, is—

Mr. RYAN. And, what are those sanctions? What can they do, if we don't?

Mr. HAGEVIK. There is the possibility that EPA could reduce the amount of sewage treatment funds available to the San Francisco Bay area. And, as I mentioned earlier, it's many millions of dollars that are being spent.

Under the Clean Air Act there are some transportation funds which might not be available. I think it would be appropriate to address that question to an EPA representative, who I believe is going to be here tomorrow.

Mr. RYAN. All right. I intend to.

Mr. HAGEVIK. But, those points were brought up at the request—I might add—of the task force people. They wanted a clear understanding of what mandates they had to meet.

Now, going back to the first point you raised about whether the elected officials felt they were effectively involved in the process, I think I would have to say, most emphatically, yes. The plan as it emerged, at the end of the process, I believe responded to every concern that they raised.

The plan that you heard about was a staff document. The staff took the view that we should present all of the measures available to our



elected officials. And, they would choose the ones that they found acceptable to them.

Mr. RYAN. So, the ABAG staff, then, prepared a kind of menu from which local officials could choose which plan they wanted?

Mr. HAGEVIK. Yes.

Mr. DIRIDON. May I respond to that, Congressman? I am Ron Diridon, chairman of the board of supervisors, Santa Clara County and president of ABAG.

Mr. RYAN. Now, you are on for a little later on down here.

Mr. DIRIDON. Yes. I wish to give an overview comment. And, I apologize for being late. We had another meeting here in—

Mr. RYAN. I would rather hear from the ABAG officials for awhile, if I could, supervisor. And then, if you could come in later on, we'll give our full attention to you.

Mr. DIRIDON. Yes. I am president of ABAG.

Mr. RYAN. You are president of ABAG. I know. But, this is the staff. And, you are the ones who prepared all this, I presume?

Mr. DIRIDON. They worked for the president and an executive board of ABAG. And, I think that to ask them how the elected officials in the bay area feel about the issue is a proper question to ask—policy-makers.

Mr. RYAN. Well, I was asking their perception of how they feel.

Mr. DIRIDON. All right. I'd like to respond to your question. And, I think I can do so a little more directly than a staff person might be able to respond.

Mr. RYAN. Well, I appreciate it. But, if we can, I would rather wait until we get to you. Because, I am interested in hearing about the difference between—there have been criticisms that the ABAG board, itself, was not always aware of what the staff was doing. Or, that the staff, itself, was independent of, and could manipulate. The extent of the truth of that, I don't have any idea; or, the validity, I guess, you could say, of the charge. But, I am anxious to hear from the staff and get their point of view on the thing.

And, then, if we can, I'd like to have you just give whatever comments you care to along the line. If a question I ask, you feel you are not competent to answer, please do so. I make no effort to place any kind of restrictions on what you do—

Mr. HAGEVIK. Well, as Supervisor Diridon said, I think he's much more qualified to speak about what the elected officials thought than I am.

Mr. RYAN. All right. Well, we'll withdraw the question, then.

Mr. HAGEVIK. OK. The point I would like to add was that I think, as professional planners, our staff responsibility was to present all of the options, even the most draconian—the "Oh, my God measures"—

Mr. RYAN. Yes.

Mr. HAGEVIK [continuing]. That we could think up. And, not on the staff level just say, that's not acceptable.

Mr. RYAN. Yes.

Mr. HAGEVIK. It was not our job to say, throw out rationing—

Mr. RYAN. Right.

Mr. HAGEVIK [continuing]. Or land use controls. But, let the policy—



Mr. RYAN. So, you believe, then, that the staff prepared an adequate range of options?

Mr. HAGEVIK. I think that's a fair statement.

Mr. RYAN. Mr. Macris?

Mr. MACRIS. Well, I think, what we'd want to say, sir, is that—to follow up George's point—is that our job was to show the complete range of possibilities, notwithstanding whether we thought that gas rationing would be unacceptable to the public.

Mr. RYAN. Yes. All right.

Mr. MACRIS. And, I think what we did learn from that process is that the staff was immediately—I think "accused" would be the right word—accused of insisting on gas rationing. And, I think, if we had to do it over again, we might take a slightly different approach. Because, it could follow your remark that staff was, I think, innocently, in a position of saying, we are pushing gas rationing; or, we are pushing the banning of gas lawnmowers. This was not our intent, at all.

Mr. RYAN. Yes.

Mr. MACRIS. Our intent was simply to get out the subject for debate and final decision by elected people.

Mr. RYAN. Thank you.

Are you on page 2, I believe, here?

Mr. HAGEVIK. Yes. I want to finish up on—

Mr. RYAN. All right.

Mr. HAGEVIK [continuing]. Organizing to prepare the plan.

Finally, we did have a unique body set up by the State in EPA, called the program review board of the various State agencies that were involved in the process in EPA.

And, this was a useful way for EPA, State agencies, ABAG staff, and elected officials to talk about what the actual requirements of the planning program were. It was a very informal base meeting that occurred every couple of months.

And, I think it allowed, paradoxically, the State agencies to talk to each other on an informal basis in our offices. And, I think, it's a small point, but I think that was a very effective mechanism for allowing many of the participating agencies to discuss common problems that they faced.

On the next page, very quickly, the elements of the plan that we address were: Water quality, water supply, air quality, and solid waste.

On the right side, are really the issues facing local government. They don't think directly in terms of water supply, water quality, probably as many of the EPA people do. They are concerned about these set of issues. And, we saw that on all the programs that we were involved with at the local level it came down in terms of the issues of population growth; land use and transportation; housing; energy; particularly, fiscal impacts; equity; and the overall benefits and costs.

And, we tried to lay out these in one plan, so that the local elected officials—at least once—should see the range of federally mandated environmental programs that they had to respond to.

And, I think that's one of the reasons why we got so much attention. Because, it became a very big effort, because of, No. 1, the variety of Federal planning requirements, but also the recognition by locally

elected officials that the environmental issues that they had to deal with had social and economic impacts, and that they were closely related to each other.

Now, to conclude on the next page, I want to emphasize the process. Because, when we were at that meeting, Mr. Chairman, in San Mateo County, we were working with the draft plan which had a number of very strong measures in it. Through this review process—through technical advisory committees, that involved local staff, the business community, and industry, the Environmental Management Task Force did make a number of changes in the plan.

They held public hearings on the plan. One in San Jose, I believe, had 450 people present.

The ABAG Regional Planning Committee and the executive board made changes. And, finally, the general assembly acted on the plan on June 10.

It is interesting to note that the general assembly approved the plan with only about five dissenting votes. There was general concurrence that the cities and counties in the region could act together to come up with an acceptable plan.

The only change that was made, of significance, at the general assembly was to require staff, on a yearly basis, to prepare a report on the implementation of the EPA programs in other parts of the country. An overwhelming concern was stated about the fact that EPA might be less stringent in the application of its regulations in some other part of the country. And, therefore, place our local governments in our region at a competitive disadvantage in terms of economic development.

And, we will, on a yearly basis, update this plan and bring before the general assembly how EPA and other Federal programs are being implemented, let's say, in Texas, as one example. So, the ABAG executive board and general assembly can decide whether to modify the plan in any way to meet the needs at that point in time.

That concludes my presentation. And, I think, next we are going to have Gene Leong and John Davis, of our staff, go quickly through the air and water portions, and solid waste portions of the plan.

[Thereupon, both witnesses were sworn.]

Mr. RYAN. Give both your names, please, for the record.

Mr. DAVIS. My name is John Davis. I am principal environmental engineer with ABAG. And, I was responsible for preparation of the water quality, water supply elements of the environmental management plan. What I would like to do is—

Mr. RYAN. Let him give his name, please.

Mr. LEONG. My name is Gene Leong. I am also a principal environmental engineer with ABAG. And, I am responsible for preparation of the air quality maintenance plan.

Mr. RYAN. OK.

Mr. DAVIS. I'd like to briefly go over pages 5 and 6 in the document that you have, which explains what's in the plan for the water quality element and the water supply element.

The two are somewhat different. The water quality element builds on a number of planning programs already ongoing in the area. A great deal of effort is already being expended to clean up the municipal



and industrial waste discharges. We were building on that planning program.

The water supply plan is somewhat different in the sense that there has been little water supply planning in the region, from a regional perspective, in the past. Principally, this occurs because the responsibility for water supply service is shared by many agencies who do their own planning in a fairly independent fashion.

Looking at the water quality plan first, the principal objective was, it was to try to determine what water quality problems might remain in the region once the present program of municipal and industrial wastewater treatment plant construction is complete.

After a fairly lengthy period of analysis, we concluded that the more evident water pollution problems were pretty well on the way to solution. What we were left with was a range of more subtle environmental problems, mostly things dealing with the unexplained effects of pollutant effect on fish and wildlife.

Because of this, the general thrust of our program was kind of a dual thrust, in a sense. The one part of it was that we should gather more information on these less well-understood pollution problems. The other was that we should take fairly modest, low-cost steps toward control of pollutant sources.

Going through the principal recommendations, the first on the list is that the municipal and industrial wastewater facilities construction program should be completed.

We concluded there was no necessity for any higher levels of treatment than those currently required by State and Federal law, however.

The second, and one of the most important recommendations in the plan, is that we should begin surface runoff control programs in each county.

These programs were prepared by the counties themselves, under the overall direction of ABAG. One of the conclusions that we reached is that there has to be a shift in emphasis in water quality management from the point sources, the municipal and industrial sources, of pollution to surface runoff—that is, the pollutants contained in storm runoff from our streets.

So part of the plan is a recommendation that each county go ahead with the program that it developed itself as part of this overall EMP program.

A third recommendation is that we should establish a San Francisco Bay delta research advisory council. As I mentioned, there appears to be a need for better gathering of information on pollutant effects on the bay, and better research into what we can do about them.

As originally formulated, the recommendation was that a new separate entity should be set up to undertake monitoring and research in the bay. As a result of the approval process, it was decided that there is not a good enough case for such an organization at this time. And so the recommendation was modified to form an advisory committee, which would advise the existing regional water quality control board on this matter.

Another recommendation is that we should attempt to reestablish recreational and commercial shellfishing in the bay.

Since a great deal of money has been spent on cleaning up the pol-

lutant sources, it seems that for a relatively modest expenditure, we could derive the benefits of a shorefishing industry, or, at least, the recreational benefits of shellfishing.

Some of the recommendations deal with the wastewater disposal practices in unsewered areas, establishing minimum guidelines for septic tank, or other on-lot systems. Also, some recommendations deal with pollution caused by vessels, construction of holding tank pump-out facilities at marinas, and holding public hearings to determine whether a discharge prohibition is necessary.

Turning to the water supply side, the basic problem in the area is that the demand for water is growing. We currently consume something like 1,600 million gallons of water a day. And, by our estimates, we would expect to consume something like 2,000 million gallons a day by the year 2000, if a bay area population of about 6 million develops.

The problem was how best to go about matching the supplies that we have with demand. We looked at three possibilities: (1) The water conservation programs. Basically, trying to make better use of the water we already have. (2) Wastewater reclamation. Trying to reuse sewage for uses that require lesser quality waters. (3) Looking at the possibility of new sources of water.

We concluded that if moderate water savings programs—those that emphasize savings in the home—were implemented, something like 12 to 15 percent of the regional demand for water could be saved.

If we went ahead with all of the wastewater reclamation projects that seemed to be reasonably cost effective—that is, that they could deliver water at a price comparable with water from new sources, for example—then, we would save another 5 percent of demand.

The new sources of water being planned for the area could deliver around 500 or 600 million gallons of water a day. And, it became apparent to us, that if conservation and reclamation were pursued fairly vigorously, then it, probably, would not be necessary to construct every one of the five or six major water projects that are presently planned before the year 2000.

Just to summarize the recommendations of the water supply element, the first recommendation is that we should create a regional water management coordinating committee made up of the major water agencies. It would provide a forum for these agencies to get together and attempt to take some steps toward regional water supply planning.

I think some benefits are evident. And, as I mentioned earlier, the present division of responsibilities means that planning is conducted right now in a rather fragmented way.

Second, it is recommended that the moderate water savings program I mentioned, should be implemented by water agencies.

And, finally, it is recommended that all the cost-effective wastewater reclamation projects should be built.

That concludes my presentation on water quality and water supply. If you have no questions, I'd like to ask Dr. Leong to describe the—

Mr. RYAN. I'd rather wait until after we are done with the air quality section.

Mr. Leong?

Mr. LEONG. California is known, either famously and infamously, for its air pollution.



Basically, the regulatory mechanisms that are established under State and Federal law in California are that we have a California air resources board, a State agency which is overall responsible for the air pollution efforts. And, then, we have numerous regional agencies. Here in the bay area we have the bay area air pollution control district, which operates predominantly in the control of stationary sources.

The bay area is a nonattainment area for numerous of the health-based air quality standards that the Federal Government has established. The most serious of these is photochemical oxidants. Although, in the last 10 years, this photochemical oxidant problem has been improving, the region still continuously, periodically, violates those health-based standards, anywhere from two to three times, anywhere from 30, 40, 50 days a year.

With the programs that are currently in place, we project that the air quality will continue to improve between now and 1985, with the technological advances that have been adopted. But, from 1985 to 2000, our analysis projected that the air quality would steadily get worse, because of the steady population growth in the region.

What is in the air quality plan is, basically, a few more controls in most of the areas in which California, the Federal Government, and the regional agencies have already adopted programs. It will mean additional stationary source controls on the existing industries, and those new industries that are seeking to locate in the bay area. It, also, will mean that we will have to more stringently clean up motor vehicle exhausts. And, also, we will have to implement some modest transportation controls.

Very briefly, we recommend using available control technologies for the existing sources. Although stationary sources are relatively well controlled in the bay area, there is still some room for improvement. These improvements to use improved available control technologies are recommended and scheduled, or recommended to be implemented over the next 5 to 10 years.

For new industries seeking to locate in the bay area, we recommend using lowest achievable emission rates, or the best available control technology.

The plan also continues a new source review rule, which was written in the Clean Air Act of 1977, as a requirement for all regions seeking a 5-year extension, from 1982 to 1987. The bay area has had some form of a new source review rule in place since 1972.

In the area of motor vehicle exhaust, we made three basic recommendations:

One was that there be more stringent emissions standards, even more stringent than those currently contemplated in the Clean Air Act of 1977. If we are going to continue to accommodate the, approximately, 70-percent growth in vehicle miles traveled in the bay area, we will have to have even cleaner cars.

Also recommended is periodic inspection and maintenance of vehicles, similar to that program established in numerous areas of the country already. Where we can insure that the exhaust systems of motor vehicles are continued at the lowest possible rates.

And, last, it calls for a heavy-duty gasoline retrofit program. Even

though the heavy-duty gas vehicle trucks do not account for a large percentage of the travel, those exhaust systems are relatively uncontrolled and disproportionate to the travel that they actually account for.

Lastly, the plan recommends trying to slow down the rate of growth of the vehicle travel through a number of transportation system improvements. Briefly, this would be improving the transit systems in the bay area; improving the level of transit service; providing some preferential treatment for high-occupancy vehicles, carpools, vanpools, buses; providing more jitney services, carpool matching programs, and vanpooling programs; and, then, developing more and safer bicycle systems throughout the bay area, so that we do not have to become so dependent on the motor vehicle for all of our travel. But, for very short trips, we can accommodate some of them through bicycle systems.

With these measures, the staff analysis is that we can meet the air quality standards set by the Federal Government, and do so in a manner that still accommodates the growth projected in the region.

I'd like to spend just a little bit of time on the solid waste plan. We have three basic problems in the area of solid waste management:

One is that we are running out of landfills. As we continue to generate municipal waste, we are filling the existing landfills relatively rapidly. For an example, to give you an idea of how much solid waste is generated in the bay area, you may have seen the Bank of America here in San Francisco. The bay area, as a region, generates enough solid waste to fill that building every 13 days.

As these solid landfill sites become filled, we have to find more acceptable sites, or we have to reduce the amount of solid waste generated.

The handling and management of hazardous waste is also a problem. We have only a number of sites for these materials in the bay area. And, we need to more systematically look at how to treat those wastes regionally.

Lastly, with the building of the municipal wastewater facilities, we will be generating considerably more or larger amounts of sludge, and, this, in and of itself, will become a major disposal problem, especially as the waters become cleaner and cleaner.

So, with that, we've identified five major recommendations in a solid waste plan. They really build upon the county solid waste plans that are mandated in State legislation. And, then, they try to address a number of the regional problems that have not been treated in county plans.

There has been a goal in our plan adopted of reducing the amount of refuse in landfills by 30 percent by the year 1982. And, hopefully, if we can provide sufficient incentives and remove some of the institutional and economic obstacles to recycling resource recovery, we can possibly accomplish that objective.

In the area of hazardous waste management, we need to improve the existing mechanisms that we have for treating that so that we can better enforce in-place regulation. We do, in that area, particularly, also need to generate a little better data on the volumes that we are talking about, and how to transport them to the various proposed sites.

Lastly, there are a number of proposals for constructing facilities



to deal with the sludge that is being generated by municipal wastewater facilities. And, there is an ongoing study now by the wastewater agencies to look at how to integrate that into an overall regional solid waste plan, and it contains a number of facilities to deal with this. Those facilities are recommended. There are some constraints, because, a number of those facilities do come head-on with some of the local air pollution control regulations, especially as you try to generate or recover energy from the management of that sludge.

So, with that, I'd like to quickly summarize some of the costs of the plan on the following page.

Mr. RYAN. Would you suspend at that point? I am going to try and contact the Governor to find out why they can't send anybody down here from the air resources board. There has been a great reluctance on the part of anybody to show up here to talk about it, who has any kind of board capacity to speak.

So, we'll take about a 10-minute recess. And, we'll continue with you at that point.

[Brief recess taken.]

Mr. RYAN. The subcommittee will come to order.

Before we begin with your testimony again, Mr. Leong, I'd like to announce that the water quality control board has now changed their mind. Instead of—

A VOICE. It's air.

Mr. RYAN [continuing]. State air resources board has now changed its mind. Instead of sending a staff assistant to explain things, they are now sending Dr. Marjorie Evans, a member of the board, and an attorney, who will testify tomorrow about the air resources board policies. And, we thank them for their gracious change of mind.

Mr. Leong?

Mr. LEONG. OK. I'll very quickly try to finish the last two briefing charts. Instead of going—in terms of figuring the cost of the plan—through a line item description of each of the elements of the plan, I'd like to just go right to the bottom.

Our estimate of the overall programs is that, on an annualized basis between 1975 and the year 2000, these programs for water quality, water supply, solid waste, and air quality improvement will cost approximately \$540 to \$620 million a year.

Some of those are new costs. Some of those are new costs which will have to be partially borne by local governments. Many of these costs are to be continuations of existing State, Federal, and local grant programs. So that even without the environmental management plan many of these programs will continue. And, they have been so noted.

Mr. CUNNINGHAM. What's the impact of the loss of State revenues on this figure, as far as your ability to meet matching fund requirements?

Mr. LEONG. Are you referring, specifically, to the impact of proposition 13?

Mr. CUNNINGHAM. Yes. The Jarvis-Brown—right. [Laughter.]

Mr. LEONG. It differs by particular program. For example, in the first program, the municipal wastewater program. Currently, 75 percent of that is Federal grants; 12½ percent of that is State grants; and, then, 12½ percent is local. Along with the recent election that

did pass Jarvis-Gann was a State clean water bond bill that did pass. So, it should not affect that particular program.

The county surface runoff program may be impacted, in that one of the measures that we identify as the best management practice is to increase the frequency of streetsweeping. That may be one of the services that is cut back.

So, it depends on the particular program, what the impact will be overall. But, you could probably be safe in saying the passage of proposition 13 will not help air quality, water quality, solid waste improvement.

OK. Last, in terms of carrying out the plan, there are a number of key points that we think are important. The environmental management task force, the policy body that was set up, was an ad hoc committee set up to help us guide the development of the original plan.

Our overall evaluation of that is that it is a good idea to involve all of the various interest groups in that. So, we have now established permanent procedures for integrating that environmental planning within the existing ABAG committee structure.

We have, also, intentions and plans to periodically update the plan. George mentioned the concern of the locally elected officials that they get an annual update as to, not only what we are doing in the bay area for environmental quality, but, also, what other areas of the country are doing.

We currently are beginning to work on getting management agreements from the various implementing agencies, so that we can begin actually carrying out the actions and recommendations that have been adopted by our general assembly.

And, as an example of that, we've listed a number of the cooperative planning arrangements that we have with the various agencies, both regionally, State, to conduct air, water, and solid waste management planning.

With that, perhaps we could answer any questions you have about any aspect of the program.

Mr. RYAN. All right. What happens if the Federal Government rejects the plan. Let's get Mr. Macris in on this, too. Or, anyway, it doesn't matter.

Mr. MACRIS. Well, it really depends on the specific element of the plan, since there are different Federal mandates and there are different provisions. John could respond to what would happen if the water plan was rejected, and, I guess, I could respond with respect to what would happen if the air quality plan was rejected.

Mr. RYAN. OK.

Mr. DAVIS. In terms of the affected elements of the program, I think, if the plan was not accepted, it probably wouldn't affect the present program of sewage treatment constructions, simply, because that's in response to existing laws.

It would affect our ability to begin a regional surface runoff control program. In that there is no mandate for that type of program beyond the 208 plan, itself.

The same is probably true for some of the other activities listed in the water-quality plan. Although, in some cases they may be undertaken anyway by the regional water quality control board as part of its responsibilities.



Mr. RYAN. Lets talk about money. Who is going to pay?

Mr. DAVIS. As far as municipal sewage treatment facilities, I think that our indications—although it's not 100 percent certain—from some of the discharges is that they feel they won't be too adversely affected by proposition 13. Because, first of all, the construction programs, as Gene mentioned, 87½ percent outside funding. And, the local share, in most cases, can be collected as user charges, rather than as part of the property taxes. So, they feel that they are pretty well set up, or ready to obtain the money for their part.

Mr. RYAN. Can we talk about any kind of general percentage assigned to Federal, State, and local agencies?

Mr. DAVIS. In terms of the total numbers for the plan?

Mr. RYAN. Yes. You got a figure over here, for instance, toward the back, of around \$600 million. I guess, that's a nice even, round number.

Mr. DAVIS. I think, we'd probably just have to go by a program element. And, as far as water quality is concerned, just looking at the numbers, it seems something like 75-percent State and Federal money. The industrial facilities construction would be private money. The surface runoff plans would be the countries and local revenues. And, the other costs are distributed among State and local agencies. Water supply, the costs would be borne locally, largely by water agencies and the sewerage agencies. But, again, I guess—

Mr. RYAN. Let's go down to the bottom line.

Mr. DAVIS. OK.

Mr. RYAN. You are talking about—I don't take that lower number. I don't think I've ever seen—in my experience in government—where we ever came in at the low estimate. It always is the high estimate, and then past that. Let's take this \$624 million there. And what percentage of that total would be Federal; and, what percentage State; and, what percentage local? Assuming it's roughly?

Mr. DAVIS. Just a moment, please, sir.

Mr. RYAN. OK.

Mr. DAVIS. Again, we have to do it by a particular program.

Mr. RYAN. And how does it come out on the bottom line?

Mr. DAVIS. At a rough estimate, I would say something like 50-percent Federal, 15-percent State, and the remainder local.

Mr. RYAN. It's 15-percent State. That's 35-percent local, of, say, \$600 million. So, we are talking about \$200 million.

Mr. LEONG. Now, of that local, that is divided into public and private, as well. For example, on the stationary source industry cost, that is almost all private cost.

Mr. RYAN. If it's private costs or public costs, it's a wet blanket on further development, among other things. And, that, in itself, is a drag on economic growth, and the normal kinds of movement that you have to have in order to survive. OK, I think that's an interesting figure.

Was there any comment, or any discussion, anything written in this plan that had to do with the regulation of residential conveniences, such as dishwashers, clothes dryers, that sort of thing? I noticed that there's some reference to lawnmowers.

Mr. DAVIS. No. There was nothing in the plan that would affect household appliances, other than the water conservation measures.

Mr. RYAN. OK. What about population control; any reference to that?

Mr. LEONG. There's no reference to population controls. As part of the underlying effort, the first thing we have to do is to make population projections for the anticipated growth within the region. And, ABAG undertook a very extensive effort in interviewing various local cities, counties, special districts on what they anticipated to be the needs within particular jurisdictions. And, then, through the advisory committee, they also developed certain fertility and migration assumptions for the region. We developed a range of population forecast that we felt were equally plausible, depending on what assumption you made in the start.

Mr. RYAN. But, you made no effort to control that in any way?

Mr. LEONG. Absolutely not.

Mr. RYAN. All right. What about Department of Transportation and Housing and Urban Development agency, did you make any recommendations? Is there anything in there stipulated, or any reference to present policies of the Department of Housing and Urban Development in regard to the location of construction of housing? Or, tax advantages, so that you can control or encourage development in the central city, rather than continuing to spread out further, thereby causing more pollution rather than less?

Mr. LEONG. OK. In the original staff-drafted plan in December, there was a number of development and land-use management proposals. The purpose of these was to reduce the amount of vehicle travel in the region, and, thereby, to improve air quality.

In the review process, the environmental management task force took those specific actions out. And throughout all of the following review, all of those specific land use and development measures have been deleted from the plan.

Mr. RYAN. Was there any consideration by the staff of what measure might be taken to encourage development of housing in the cities, in areas that are presently already developed, through high rise, or redevelopment, or anything else—as a means of getting rid of the air pollution?

Mr. LEONG. Yes. Those were parts of the original proposals that the staff did prepare.

Mr. RYAN. And what happened.

Mr. LEONG. Those were deleted from the plan by the policy bodies.

Mr. RYAN. By the ABAG board, itself, or whom?

Mr. DIRIDON. Congressman, I am sorry. I was writing a note to share with you.

Mr. RYAN. Well, I'd just as soon have the staff continue to answer the questions, if they can. If they can't answer it, just say so.

Mr. LEONG. They were in the presentations to the environmental task force, which was our first policy body. All of the references to development controls and land-use management proposals were deleted from the plan.

Mr. RYAN. How was the action taken to delete it? What action was taken? Where?

Mr. LEONG. The environmental task force voted to delete that entire section of the plan.



Mr. RYAN. All right. What did the Department of Transportation do to work with your staff in putting this plan together?

Mr. LEONG. The Department of Transportation was peripherally involved in some of our advisory committee activities developing the air quality maintenance plan. They operate mainly with the metropolitan transportation commission.

In the bay area ABAG is not the metropolitan planning organization responsible for preparing the regional transportation plan.

Mr. RYAN. I know that.

Mr. LEONG. So that the involvement of the Department of Transportation—

Mr. RYAN. Should they be?

Mr. LEONG. I would say, they should be. More importantly, we did work very closely with the metropolitan transportation commission (MTC) in trying to insure that our transportation portion of the air quality plan was completely consistent with their regional transportation plan.

Mr. RYAN. Did EPA try to work with DOT? Do you know?

Mr. LEONG. Yes. They have, with MTC, a number of committees that they operate with. And, then, at a Federal level, there have been joint guidelines that have been recently published by the Department of Transportation and EPA on how to coordinate and integrate the transportation plan?

Mr. RYAN. How about HUD?

Mr. LEONG. HUD also has a memorandum of understanding with the Environmental Protection Agency to make the programs of housing and environment compatible.

Mr. RYAN. Well, that's all very well in writing. I don't see much evidence of it. Go ahead.

Mr. CUNNINGHAM. The fact that you've had a collective effort by the counties, and different municipalities within the area is just fine. A lot of people do that. I guess, my major concern now is what is being done to hold it together. So that as the growth occurs there's consistency in permits. Do you have any thoughts on that?

Mr. LEONG. The real reason that we developed a cooperative planning effort with these other agencies is because they, ultimately, would be responsible for the implementation.

For example, in the area of air quality, since the authority for implementing the various programs is very diverse, we have a memorandum of understanding with the air pollution control district and the metropolitan transportation commission that those parts of the plan that deal with their statutory responsibility are developed by them. So that they can live with what ultimately is in the plan.

In the area of stationary source controls, the air pollution control district has taken a board action that they will pursue those actions as identified in the plan. And, it's because they, working very closely with us, developed those.

So, the intent of the cooperative planning efforts was not just because it made sense. It was because we felt very strongly, in the long run, it would insure the greatest possibility for actual implementation and being carried out.

Mr. RYAN. Thank you very much, gentlemen.

Now, Mr. Diridon, I would like to run this my own way here. We are going to have to make a little change. Mayor Condon, of San Mateo, cannot be with us this afternoon. I'd like Mayor Condon, if he can, to submit his statement for the record now. He's got the American Legion down there. And, I can sympathize with that. John, would you come up?

[Witness sworn.]

# **STATEMENT OF JOHN F. CONDON, MAYOR, SAN MATEO, CALIF.**

Mr. CONDON. Thank you for your consideration, Mr. Chairman, in hearing me. I've got 10,000 Legionnaires at a convention in San Mateo today.

Mr. RYAN. And, you have my sympathy along with it.

Mr. CONDON. Thank you, sir.

Mr. Chairman and gentlemen of the subcommittee, my name is John F. Condon, and I am the mayor of the city of San Mateo, a nice community 18 miles south of San Francisco, on the San Francisco peninsula.

I appreciate being given the opportunity of offering a few remarks relative to the environmental management plan for the San Francisco Bay region, as it will have a profound effect on our city if it is adopted in its present form.

I will start off by discussing the land-use plan, which has been largely wiped out, much to the relief of my council and colleagues in other cities on the peninsula. That one portion of the plan was in distinct bad odor.

The balance of the plans have a tremendous impact on our cities. Both in their effect on the everyday living of the average citizen and to the expense to which he will be put, as well as its impact on industry.

The air pollution portion of the plan can be argued at a cost of anywhere from \$100 million to \$250 million, depending upon who you talk to.

We feel the greatest impact will be to make industry in the bay area noncompetitive with the rest of industry should they be put to the expense of such a mammoth program.

As to the water-treatment plan, we in San Mateo have been subjected to an indignity, in that we were forced to rebuild our water treatment plant by edict of the regional water control board in 1968, at a cost of several million dollars. This carried us to primary treatment, with deep water discharge. And, we were assured this was adequate with the chlorine treatment given the residue. However, 6 years later, we were mandated to build a plant producing drinking water quality discharge that is costing \$20 million. Now, it is true that State and Federal governments did finance \$16 million of that money. However, the city of San Mateo was forced to spend another \$4 million, as their portion, to bring that plant's discharges up to almost drinkable standards.

This is a distinct waste and a heavy annual operating expense to the city, due to the increased manpower requirements, and \$600,000 worth of energy, plus the increased costs of chlorine.

This operating expense is not being taken care of by any grant. It is our suggestion that this is a distinct case of overskill. And, we feel



it is a good example of why each city's requirements should be judged on a case-by-case basis.

With regard to the requirement of treating municipal discharges to high levels of quality, the city feels that, if such be the case, there should be an aggressive funding policy on distribution systems to reuse this expensive water in a useful way.

Additionally, realistic standards that would permit the use of this chemically pure water by the city, in its present system, and golf courses should be arrived at. Rather than as it exists today, where it is going to go to waste due to a State department of public health ruling that it should not be used in parks for fear it just might, possibly, cause disease in humans.

Presently, the Federal program on drinking water is moving toward overkill again. Requiring, as it does, granulated, activated carbon treatment of all drinking water. This too shocking approach to the situation should be considered on a case-by-case basis, which is not the case now.

The plan, in its discussion of solid waste material, discusses very much in detail the matter of recycling waste material. Again, there is no provision for the money that it will take to effect such a program. And, it should be cost effective, not a tax eater.

If the Federal Government is to require cleaner cars, as called for in the 1977 Clean Air Act amendment, they should be decided on a case-by-case basis, rather than penalizing Californians, which seems to be the fashionable thing to do these days.

On the question of increasing tolls on bridges for the express purpose of public transit service, this should not be done. It should be used to also take care of bridge maintenance and roads which are the approaches to the bridges, which are suffering very badly, at this time, as evidenced by Highway 92/101, overpass and approach to the cities of San Mateo and Foster City. Also, 40-passenger buses, for instance, cost about \$90,000; an average ridership is in the neighborhood of 4 persons per vehicle mile. Mileage on the buses is about 5 gallons of diesel fuel, which makes it 20-person miles per gallon, the average effectiveness of the fuel expended. A Volkswagen Rabbit will get 30 miles to the gallon. You don't have to pay the driver. And four seats cost \$2,500 each. So, there is a case to be made for the automobile as an efficient means of transportation.

A determined effort is being made to force the Bay Area Rapid Transit (BART) system on the San Francisco peninsula. And, the expense of that proposal has been estimated by engineers to approximate \$1 billion, with a leadtime of 10 years before it comes available to citizens commuting to San Francisco.

A good case could be made for upgrading the existing Southern Pacific Railroad service, at far, far less expense through an Amtrak subsidy, if necessary.

Another provision of the plan calls for controls on smaller gasoline engines, such as lawnmowers and powersaws. To enforce pollution measures on these smaller gasoline engines makes the Government look downright foolish, considering the small amount of usage and pollution such usage entails.

I will not continue on in my critique of the individual items of this plan, but, will point out that this plan contemplates the establishment

of another layer of government. And, an impressive layer at that, for the taxpayers of the region to finance and attempt to cope with.

Presently, the cities of the nine-county region have home rule and can approach their legislators with the simple exertion of going downtown and attending a city council meeting, or going to city hall.

With government functioning as it does, in no time at all, the Association of Bay Area Governments (ABAG) would be implementing the provisions of this plan at local public expense, and becoming increasingly a bureaucracy in size and scope.

At this stage, I would point out that we have the benefit of the Jarvis-Gann plan, sometimes known as proposition 13, which definitely limits the amount of money to be spent by the taxpayers in this State on the cost of government. I would point out that Jarvis-Gann's initiative intent was to limit government, not just to seek alternate ways of financing government.

That to me is the best argument I can give you for revising the laws you have passed that have resulted in the environmental management plan, which ABAG has put before you. I consider it to be a disaster to this region in its cost and effect.

Whereas, the adoption of the plan may have been a financial feasibility prior to proposition 13, it certainly is not now. And, it should be considered that in the light, as an additional burden, could very easily cause a lot of trouble to industry, the cities, and the economy.

We have very effective agencies, presently, in existence that have been formed through joint powers agreements between the cities and the counties, which cost a minimum to maintain and have proven effective to date. And, I recommend that you gentlemen consider that as a solution to carrying out your program in pollution and regulation.

For the record, the city of San Mateo did instruct its delegate to ABAG to vote for the passage of this plan, in his amended form. However, we went along only because we felt that if we did not accept the plan in its amended form, we probably would have gotten something worse—something much worse.

But, the reason we are standing here today, is because the laws under which we are operating are too regulative and force us into this situation. We feel that you gentlemen in Congress can amend some of these laws that are the basis for some of the very tough regulations published by the various departments in the executive branch. And, we hope that you will.

And, I thank you for the opportunity to appear before you, Mr. Chairman.

If you have any questions, I'd be very happy—

Mr. RYAN. I do. Thank you, very much, Mr. Mayor. And it's good to see you again.

Mr. CONDON. Nice seeing you, sir.

Mr. RYAN. And, my best wishes to the 10,000 Legionnaires you have with you in convention.

Mr. CONDON. I will.

Mr. RYAN. I hope they will leave the city standing while they get through there.

Mr. CONDON. They are doing very well, so far.

Mr. RYAN. That's great.

I think, the question that makes me most curious of all is the reference you make on page 5, where you say: We felt that if we did not



accept the plan in its amended form, we probably would have gotten something much worse. I have heard that over, and over, and over again for months. It was the reason why there was such a pressure on me to bring this subcommittee out here before ABAG took action to approve the plan, or disapprove. And, they approved.

It was the reason why, I think, there was discussion of me coming out ahead of time, or this committee coming out ahead of time; and why there was the pressure there was on the land-use portion, eventually dropped.

And, you say it again here. We felt that if we did not accept the plan in its amended form, we probably would have gotten something much worse. Now, I would like to know, if you can, what you meant by that in particular; who you had heard it from; and what that something might be?

Mr. CONDON. I heard it from various individuals, whose names I can't recall. But, I can pinpoint it, where it came down to me.

I voted for this plan. It was—in the city of San Mateo, because I was told in this public meeting, out in an open session, that if we don't vote for this—

Mr. RYAN. In the city council meeting?

Mr. CONDON. In the city council meeting—that we are going to get something much worse. And, this plan was anathema to me.

Mr. RYAN. Who said that?

Mr. CONDON. Well, I can get the minutes for you, and see if it's in there. I don't know which individual did.

Mr. RYAN. I'd like to just trace it back, if I could, and see what was the original source.

Mr. CONDON. You want the genesis of it?

Mr. RYAN. Yes.

Mr. CONDON. All right, sir. I'll do my best to find it for you.

Mr. RYAN. If you could, I'd appreciate it. When they say, something, did they indicate anything specific?

Mr. CONDON. No, sir. First of all, when I first took exception to the plan, it was when the land-use portion of it was in it.

That was dropped out. And, the council said, well, now that being the case, this might make it more palliative to us. We'd better take it, or we are going to get something worse.

Mr. RYAN. I'm going to see if we can find out more about that particular element. But, in your case, as a single city council, if that was the motivating factor, do you feel happy with the plan as it is?

Mr. CONDON. No, sir. I don't feel happy. I've just, as you can see in my presentation there, I don't care for it at all.

Mr. RYAN. Yes. It's presumably a disaster.

Mr. CONDON. Yes, sir.

Mr. RYAN. Can you give me—in spite of—anything further than your very excellently written testimony here, as an individual member—as a long-time member of a city council, now, and a mayor, and so on—what effect do you think it will have on your city, and cities in general?

Mr. CONDON. What I am afraid of, Mr. Chairman, is that implementation of this plan will be given to ABAG, and it will become a regional government layer, that our citizens will lose the ability to be able to go before their council and complain about something to

be fixed. They'll get the reaction, I am sorry, that's been dictated by ABAG, or by some higher office. And, they don't get the satisfaction—it's even—the county is even far away, today. But, to put on a nine-county regional governmental headquarters over us, is even worse.

There is one thing, Mr. Chairman, I'd like to ask you to consider. In order for the cities to get a financial grant, of any kind, we have to go through ABAG. And, that is the stick I've tried to withdraw from ABAG. And, I can offer testimony to that from Mr. Martin, who is here. That I wanted to get out of ABAG; but we're stuck, because we have no place to go when it comes to the business of grants.

And, you have put these requirements, mandated, upon us; have put us to the point we've got to use Federal money to get them, or we couldn't pay.

Mr. RYAN. Do you believe that the feeling, which you expressed is a feeling that is supported by a significant number, perhaps a majority, of the people who are members of ABAG?

Mr. CONDON. I would say a significant number. Now, if there was a majority, why, something could have been done. But, obviously, there hasn't been any effort. I think, our city has a specific objection. San Carlos also.

Mr. RYAN. Well, what about in Alameda County and Contra Costa County?

Mr. CONDON. I couldn't answer that, sir.

Mr. RYAN. You weren't there at the meeting, so you couldn't—

Mr. CONDON. Our representative, as far as the meeting was concerned, was Mrs. Baker.

Mr. RYAN. Well, thank you, very much, for being here, Mr. Mayor.

Mr. CONDON. Thank you, sir.

Mr. RYAN. It's good to see you again, as one of my bosses.

Mr. CONDON. Oh, gee, I use that line myself.

Mr. RYAN. It's a good one.

Mr. Diridon, Chairperson Diridon?

Mr. DIRIDON. If it would please the Congressmen, I'd like to invite—

Mr. RYAN. I recognize the gentleman, along side of you there, to your right. I've seen him before on many occasions.

Mr. MARTIN. I think so.

Mr. RYAN. I always respect his competence. I don't say, I always agree. You're always worth hearing. Now, would you identify yourself, please.

Mr. MARTIN. Councilman Dave Martin, from Burlingame.

Mr. DIRIDON. Dave is a past president of the mayor's committee for the county of San Mateo.

Mr. RYAN. Right.

Mr. DIRIDON. And a highly respected leader in the community. And, I thought that you made—he carries your comment properly.

Mr. RYAN. I've made that statement many times.

[Witness sworn.]



STATEMENT OF ROD DIRIDON, CHAIRPERSON, SANTA CLARA  
COUNTY BOARD OF SUPERVISORS, AND PRESIDENT, ASSOCIA-  
TION OF BAY AREA GOVERNMENTS

Mr. DIRIDON. I have a very brief statement to read into the record. And, then I'd like to answer any questions that you might have. And, particularly, address a few that were asked earlier.

Mr. RYAN. OK.

Mr. DIRIDON. The remarks were designed to introduce remarks from the ABAG staff, and, I'll present them as such.

And, let me begin by apologizing for Mayor Moscone and for Diane Feinstein. Both have been called into emergency budget sessions. They won't be able to be here today. I assume they will contact your office and try to reschedule the testimony at some other time during your stay here.

The statement is presented as follows:

I think the staff has done a good job summarizing the process we've completed to date. I'd like to close our formal presentation with a few observations about what we've learned from the process.

We learned that it is possible for local government to do this job on time, according to a severe time schedule set by Congress. You, as our congressional representative, should consider how to develop incentives for local governments to do good planning in a timely fashion in other areas.

Certainly regions that can produce high-quality plans on time ought not to be penalized merely because other regions, either by intention or by accident, lag in preparing acceptable plans. That's the first that we'd like to stress, and it's paramount in our minds at this point.

Second, there must be clear, concise explanations of Federal requirements and policy guidance to assist local governments in meeting the requirements.

The clear, early understanding, for example, of the sanctions that may be imposed under the Clean Air Act would have prevented people from asking us, as local elected officials attempting to carry out congressional mandates: Why are you doing this?

It's not enough for Congress, or EPA, to say, this is what we will do to you, if you don't come up with a plan to satisfy us. Instead, Congress and EPA have to fully participate from the beginning of the process. In this region, I am pleased that we have had the active encouragement and support of Paul DeFalco, EPA regional representative and administrator, throughout our program. If all EPA administrators were as creative and supportive of local process as Paul has been, it would go a long way toward eliminating the us-versus-them syndrome that seems to prevade this program and other Federal programs.

Third point: While supportive of our process to develop this plan, Paul has also not waived from the proper position that requirements of Federal law must be met. This is very important. As pointed out in the cover letter to the plan, local officials in this region are very

concerned that other regions of the country may not be required to satisfy the requirements of the Federal law.

Both Paul DeFalco and EPA Administrator Douglas Costle have indicated to us EPA's intentions to administer the Federal law equitably throughout the Nation. We intend to hold EPA to that commitment, and would hope to receive the support of Congress in that interpretation.

Fourth point: Turning to another concern of local government, let me talk a little about money.

I am sure I don't need to tell you the public concern, as evidenced by the enactment of proposition 13 for public spending. We know, however, that at the same time, the voters of California approved the State's Clean Water Bond Act. This is public support for a clean environment. But, because of proposition 13, local government must be given the right to reexamine all their programs and make choices.

This does not mean that environmental protection programs will be out. But, local governments have to be able to make a careful determination of what level of environmental protection will be implemented.

Officials at the State and Federal level have to appreciate the situation local government faces with respect to financing government services. We are not saying, we won't carry out these plans we've developed. We are saying, we are going to be careful how we do implement the plan.

Finally, I'd like to say that our plan asks Congress to reexamine the underlying philosophy of the Clean Air Act. Many people have characterized that philosophy as to risk. Recently, EPA proposed a change in the oxidant standards, making it easier for regions, such as this one, to meet Federal requirements. That change did not, of course, change the underlying philosophy of the act. We would ask that Congress review the act, its requirements, to make sure that local governments can do the job asked of them, while meeting other public goals such as providing jobs and housing for their citizens.

That's the formal statement that would wrap up the technical presentations of the staff. And, I'd be very pleased to comment further, if you'd choose?

I think it would be helpful—not so much for you, Leo, who has been here for a long time—but, for your other representatives to recognize the structure of ABAG, which I hasten to say, Mayor Condon does not. I've talked this over on one occasion with him. Apparently, he is not aware that ABAG is, in fact, a joint powers authority; the same kind of a body that he was suggesting be created.

ABAG was established in 1961 for the pure and simple purpose of protecting local government in the bay area from regional, State, or Federal control. In fact, all of the California councils of government were created using the same kinds of joint powers authorities rather than under State law as with the regional governments in the other parts of the Nation.

As a device for protecting local government from State and Federal control, ABAG has no power. That's a flat statement that I will support in any way you'd like. The only power that ABAG receives is that which is specifically delegated by the local government representatives that are signators to the joint powers authority. And that power can be



taken away as quickly as the next general assembly can be called, if it's abused.

The joint powers authority that was created is administered through—in the case of EMP—4 different organization levels: The general assembly of ABAG, which consists of a delegate from each one of the 87 member cities, and 7 member counties create policy on major issues. In ABAG a majority of each of those bodies is required for approval. The 7 counties must have a majority in favor and the 87 cities must vote a majority in favor for policy to be created.

There are subcommittees of those organizations. The executive board meets on a monthly basis. The general assembly, by the way, meets quarterly. The executive board meets on a monthly basis, to carry out the business of the organization. And, then, subcommittees of the executive board meet to take on specific tasks.

For example, a subcommittee of the executive board is the environmental management task force, which was given the responsibility to handle the EMP. That subcommittee reported to the regional planning committee, which then reported to the executive board and then to the general assembly. The general assembly finally, established the policy that adopted the very distinctly modified plan, which is now being transmitted to the State and Federal Government. The EMP in its adopted form has practically unanimous endorsement from the cities, counties, and interest groups of the bay area.

We have had a news release distributed to you, that was submitted recently by ABAG, that identifies the level of support that the plan now has.

I can tell you that it's a distinct difference from the draft version of the plan, which Dr. Leong described as a laundry list of all alternatives. The laundry list was requested by the environmental management task force members, who were majority elected officials, back in December 1977. That was badly misinterpreted by interest groups, and by the media as being the plan. In fact, it was merely meant to be a listing of all alternatives that could be selected from.

Once those alternatives were selected, the ones that were acceptable—after 600 hours of public hearings, 1,500 pages of public testimony—the plan has been found to be very acceptable to the region. And, in fact, this process is the best textbook example of democracy in action that I have ever seen. And, it's been described as such by others who have watched.

Mr. RYAN. You sell very well. But, I question some of the things you said, and the weight of what you say, because of what I've heard before. Beginning with this morning earlier, when a TV reporter out there quoted you as saying that I was ill-prepared. Is that true?

Mr. DIRIDON. I indicated to the TV reporter that your information was obsolete, as it appeared from their questions. Yes, sir.

Mr. RYAN. Well, I appreciate the comment. I think that certainly indicates something to the rest of my staff. We've been working on this thing for months. I appreciate that.

Mr. DIRIDON. It appears that your staff has been working—

Mr. RYAN. On May 11—if I may go on, and go a little further with this—in the San Mateo Times there is a reference here to a press conference which you held, in which Supervisor Rod Diridon, Santa Clara

County Supervisor, said at the press conference in San Francisco that, "Ryan dropped the idea of a congressional hearing a month ago."

Mr. DIRIDON. That's not accurate.

Mr. RYAN. Well, OK. I just wanted to have you say that for the record. So we can indicate that what the press is saying is inaccurate. Or, the press' comment is inaccurate.

And, then, there is another paragraph here which I would like you to comment on: "Diridon has said Ryan has since recognized that the controversial EMP is widely accepted throughout the region due to many changes in the last 2 months." Now, "Ryan has since recognized"—I wonder where you got that information? I never said that myself. I wonder if someone else told you that?

Mr. DIRIDON. That's the information that we had presented to us during the hearings. That you were much more convinced of the viability of the plan as a result of the modifications.

Mr. RYAN. Well, you're quoting me, then?

Mr. DIRIDON. Not directly. I am quoting information that—

Mr. RYAN. Your impression of what I said?

Mr. DIRIDON. No, not—I was quoting the impressions that I was receiving from public testimony from those individuals who were aware of your concerns about the plan.

Mr. RYAN. Now, you're saying that I didn't—that you didn't say that the idea of a congressional hearing a month ago was your concern?

Mr. DIRIDON. My statement at that time was that the original hearing, prior to the adoption of the plan, had been dropped by you. And, that you were intending to have a congressional hearing after the plan was adopted. And, that I had hoped that that hearing would dwell principally on how to make sure that the plan was maintained intact.

Mr. RYAN. Well, we have the reporter here for the San Mateo Times who wrote that story. It might be interesting to ask her. I don't really want to embarrass the reporter, though, with the source of that story. Maybe we can have the staff talk with her later.

The reason I ask these questions is because you make comments such as—and again, I quote the story from this same article, in the same press conference—and this is in quotes. "A plan that is acceptable to virtually all local government, business, labor, and environmental groups." Is that substantially correct there?

Mr. DIRIDON. That's substantially accurate. Yes. In the form that had been modified. Yes.

Mr. RYAN. Yes. Well, I presume the reason I ask that is because you seem to have a tendency to make enthusiastic statements which are a little bit larger than, perhaps, the facts might warrant. In the case of my own comments, anyway, I think your interpretation of what I said at that meeting is open to question, of course. But it was certainly not my intention to indicate that, I believe, there was any kind of wide acceptance because of the changes. I didn't make that comment then; and, I don't make it now. In fact, I don't believe there's wide acceptance, at all, of this particular plan. On any kind of a referendum basis, I question whether it would get anything like the support of proposition 13, as a matter of fact.

That's part of the problem I have. I am trying to find out whether or not this particular plan is a result of those who are: (a) Enthusiasts



for regional government; (b) those who tend to believe there is some value in cleaning up the water in this fashion; and (c) who are joined together throughout the bay area by means of the various city councils and the structures that we have, without any kind of referendum to the people.

No one, that I know of, on that ABAG Executive Board runs for office to the ABAG Executive Board. And, years ago, when I was in the State legislature, with Jack Knox, as well as some others, I was a very strong proponent of a regional body in this bay area to be the regional government, to get elected to the job. So the reason for it is rather obvious. Because, I believe, that there would be, then, a referendum in which people, who were making these decisions, would stand for election and be challenged for those particular kinds of decisions.

And, I don't know, today—and, this first effort that's gotten this far, because of Federal legislation—that this kind of approach to the resolution of pollution problems—which are serious in this country—is, perhaps, the right way to go for the Federal Government. And, that's where the impetus comes in the end.

Your comment, for instance, that you say—I believe, this is a direct quote: "ABAG has no power." And, I find that very hard to live with. Because, it's a little bit like saying that the Appropriations Committee of the House has no power until the full House ratifies its decisions.

That's true, in the strict sense, I suppose. But, it is whoever has the purse strings—and, ABAG has the purse strings in determining many of these grant requests that go out to cities. If, in fact, as Mayor Condon said, they are afraid of what they will lose—the cities are afraid of what they will lose, if they don't go along with a particular plan. Obviously, the implied threat there: If you don't go along with us on this particular plan, we will remove our approval from your project for sewage plant renewal, or whatever it may be. Now, that's the source of the coercion, if it exists—the implied coercion, if it exists.

And, I'd like to have some kind of comment, as you see it, about that particular line of reasoning, or that rationale?

Mr. DIRIDON. You've asked about six questions.

Mr. RYAN. All right.

Mr. DIRIDON. And, I'd like to address them, if you'd give me the moment.

First of all, the adoption of the ABAG plan, the environmental management plan, is in no way a referendum on regional government. It was precisely relating to the environmental planning management process.

Mr. RYAN. That's your conclusion. And, I would accept it as such.

Mr. DIRIDON. Well, I think it's accurate, also.

Mr. RYAN. Well, that's why they have elections.

Mr. DIRIDON. The process of government through the region should be directly elected. And, I have supported that concept every time Jack Knox has presented his numerous regional government bills.

ABAG, by the way, endorses directly elected regional government. And, we would like to see, and are intending, after the proposition 13 situation settles down, to pursue again another of Jack's many attempts at establishing a regional body, recognizing that if a directly elected regional government is established, it will have direct power, also.

Let me address now the issue of power of ABAG. Every one of those

votes on the environmental management plan was a directed vote. As you heard from Mayor Condon, the vote of his city was directed. He had no choice when he came to that general assembly meeting. He was told to vote in favor of the plan. Just as with all of the other 87 cities and 7 counties.

Out of that direction process—and that direction occurred during a public hearing at a city council meeting, not before a general assembly hearing at ABAG—but, in that direction process, only five cities voted in opposition to the plan. For whatever reason—whether it was by the process of coercion, that you described; or, whether it was by the process of wanting to protect local control; which is really the reason.

Mr. RYAN. Supervisor, do you think that the—

Mr. DIRIDON. Out of the total general assembly, five cities voted in opposition.

Mr. RYAN. Do you think that the cities were well informed?

Mr. DIRIDON. Yes. I think, very well informed. As a matter of fact, every city had at least one presentation. Every county board of supervisors had at least one presentation. And, most of them had numerous presentations. And, each one of the areas had public hearings—

Mr. RYAN. So, you believe the city councils were well informed on this plan?

Mr. DIRIDON. I think this—

Mr. RYAN. Would you think that there is any question, then? Or, if there's any effort on the part of the subcommittee to prepare a kind of "20-question" sort of questionnaire, which might be sent out to the various 84 members—84 cities in the bay area—84, or 86?

Mr. DIRIDON. There are 87—87 in ABAG.

Mr. RYAN. To the 87 cities, and ask the various city councils, individually—members—to answer the thing, to get some idea of the relative understanding of the elements of the plan?

Mr. DIRIDON. I think, if you would compare their response on this plan with their response on a similar kind of piece of legislation, yes, it's a relative issue.

Mr. RYAN. I think that's—I appreciate your comment. One of the doubts that I had is that from my own experience, the 7 years on a city council here in the bay area, when Dave Martin was one of the veterans in the San Mateo County—Dave and I served at the same time for awhile on city councils—not on the same one, but at the same time—and, we used to discuss the problem of communication, and lack of information on the part of so many members of the city council; and being concerned about that. And I am now. And, because the San Francisco Bay area leads the way and sets a precedent, I am terribly anxious that we have as accurate a kind of information as possible, about the quality of the information that's been available.

Mr. DIRIDON. Would you care to hear a comment from Dave on this? Councilman.

Mr. RYAN. Dave?

Mr. MARTIN. A couple of items. Your source of Mr. Condon's information that he'd better accept the plan was probably me. The implication, though, that you're going from—and, I don't think is quite what I had in mind. Now, whether I was the originator, or someone else that he talked to was the originator, I don't know. It fits with my philosophy of government, so it's not a new idea, as far as I am concerned.



The point here is not that I am afraid of the legislation of the Congress. What I am afraid of is two other things that intervene between the Congress and the local government. And, that is, the bureaucrats in the Federal Government. And, what I am even more scared of are the bureaucrats in Sacramento.

If the plan was accepted—and, I am in full agreement with the Congress—we need clean air; we need clean water. But, the Congress didn't really say all the little bits of pieces that go in the making up the regulation that's this thick, that we have now. I was present for these hearings, as you well know. One of the points that I wanted to make at the hearings is, let Congress take another look and see if they really want their restrictions as strict as EPA has made them.

The reason I advised the cities to accept is that, under the act, if we did not present a reasonable plan, it was the power of the State agencies—and, I am particularly concerned with the air resources board and Mr. Quinn—some of the things they could have forced on us, we could not have lived with.

Mr. RYAN. Just, for example?

Mr. MARTIN. Well, for example, land use.

Mr. RYAN. Could they still do it?

Mr. MARTIN. Yes. Land use, I think, would be a horror. We would be forced to live with a land-use plan that really only affects from 4 to 7 percent of the possible removal of the hydrocarbons. And 24 times that is some 364. My figures may be a little vague. But, generally, in that range. This is overkill. And, yet I am as sure as I am sitting here, if the air resources board was able to, they would attempt to impose those regulations on us. Hopefully, we can get something—if they do that—that will force that plan back, and let us take another look at it. And, throw the burden of proof on any agency that says our plan is not viable. Rather than just throw it back and say: You figure it out. I want them to come back with case by case as to why it isn't. Then, let us take a look at it.

I don't like some of the things of ABAG. And, I've been a member of their general assembly since 1962, with the exception of a couple of years, which is probably longer than anybody in this room. They do a lot of things wrong. But, it's still some place that I can work within the rules, and get my voice heard, and get my city heard.

In the case of this plan, the county was well organized, in the San Mateo County. From the December plan to the April plan, we proposed 23 amendments to the plan. And, every one of these was accepted by the executive board.

So, cities do have some way to put into ABAG.

And, I think the plan that we had in December, that your environmental management task force, and, I think, basically, ABAG's staff, wrote was a horror. The plan that was accepted in June, I think, is a reasonable plan. It's still putting a great deal of imposition on cities and counties. But, we can live with it, if we have to.

I think what we're asking you is: Take another look, and, maybe, ease some of those restrictions. So that the economic hardships that they will work on this region are not so that we can't exist under them.

Any questions?

Mr. RYAN. Yes. I've got one in particular: Are you, personally, comfortable with the present plan?

Mr. MARTIN. We have to have a plan.

Mr. RYAN. Well, let me say it this way. We have to have a plan, why?

Mr. MARTIN. Because, the Congress says we have to.

Mr. RYAN. If you had a choice, would you not have it?

Mr. MARTIN. I would not have this plan, if I had a choice.

Mr. RYAN. What would you do?

Mr. MARTIN. I think that we need to relax some of the requirements.

Mr. RYAN. Such as what?

Mr. MARTIN. Such as some of the requirements on the automobile. The requirements that we meet certain hydrocarbon standards, and so on.

The problem here is that these are based on hypothetical points. They are based on a hypothetical population, for a hypothetical number of cars. Nobody knows that those are correct. I think that when we get through with this plan, as it's written, we are going to have very clear air. But, nobody may be working, is the problem. I think the economic benefits should be taken into consideration more than they have been.

Mr. RYAN. If you had the capacity to write the Federal legislation, granted just the one fact that the Federal Government feels it necessary to get into the act of cleaning up air and the water in this country, how would you do it?

Mr. MARTIN. I think—God forbid I should ever run for Congress—

Mr. RYAN. That's giving you the idea before you—

Mr. MARTIN. I think the legislation tends to go toward no risk. And, if I were in the Congress, I would tend to relax that no risk, no harm—

Mr. RYAN. May I introduce a member of this subcommittee, who was busy in another courtroom having his own hearing. He's also a chairman of a subcommittee of Government Operations. The one, the only, the inimitable—Congressman John Burton, from San Francisco. Thank you for being here.

Mr. BURTON. Thank you, Mr. Chairman. Unfortunately, we've got our own hearing going down in another chamber.

Mr. RYAN. Let the record show that for the purpose of taking attendance that Mr. Burton is present.

Dave, go ahead. Unless you had some questions.

Mr. MARTIN. I am concerned about the failure of HUD and the Department of Transportation to get into the act, as EPA has. Because, I believe that what EPA does is, essentially, to penalize people for being where they are, and to try to force them to move elsewhere, or to move in a different direction by using pressures of various kinds, primarily financial, through the cities to cause change.

Mr. RYAN. That's correct.

Mr. MARTIN. There are other ways to do it. For example, if the Department of Transportation were to take the same amount of money involved here, one-half of a billion dollars, and put it into encouraging different kinds of transportation modes, different kinds of tax benefits. For example, for construction of houses with HUD. Different kinds of policies which would encourage people—pull them back into San Francisco to live in different kinds of structures that are constructed so there's a minimum amount of necessity for automobile travel—instead of, as they did a few years ago, trying to fine every-



body who parked in the parking lot in Serramonte or in Burlingame, you know.

The approach that EPA is using now, to me, is one which, essentially, is the punishment route, rather than the reward route. And I wonder if there isn't—if you, or others, who have thought about this, as you have for years, don't have some kind of suggestions that might improve the situation.

I don't know any way to improve it. The way government works these days, I'm about to give up. I sometimes think there is no solution.

Let me give you an example, Burlingame built the first partially tertiary treatment plant on the bay some 10 years ago. Almost from the day that plant was completed, we were under sanction from the water quality control board because theoretically we had some solids going into the bay. And, then, beyond that, we got into a discharge immediately off land, no deep water discharge.

The water was clear enough so that when the plant was dedicated—I will admit we boosted up the chlorine content, slightly. But, Congressman McCloskey and I drank the water.

Mr. RYAN. I remember the picture in the paper.

Mr. MARTIN. That's right.

Mr. RYAN. There were all kinds of comments about that.

Mr. MARTIN. That's right. Yes, there were. I think Mr. Diridon has some comments.

Mr. DIRIDON. I can tell you, I am not anxious to drink that water. That takes courage.

You asked two questions that are pivotal in the process regarding transportation and housing. I think that a very much more positive approach to solving some of the problems that we are seeing here could be accomplished by Congress being more vigorous in regard to providing mass transportation funding and assistance in housing.

And, if you can take that back from me, not as president of ABAG, because I don't have the authority to present that, but as the chairman of the board of supervisors, Santa Clara County, please do. And, with a fervent plea that you support additional funding for mass transportation for California. We are in serious need. Particularly, since proposition 13's passage.

The planning process, though, that we've just been through is mandated. And, unless the law is changed, we are required to have that plan.

We have a plan, now, that, although each of us would find individual flaws with it, has met the test of political compromise to the point that it's been adopted. It's been adopted—

Mr. RYAN. What if the State and/or the Federal reject that plan?

Mr. DIRIDON. Well, I hope that that would be one of the outgrowths of this hearing.

Mr. RYAN. Will it be worse?

Mr. MARTIN. Yes.

Mr. DIRIDON. It will be worse, if only because we don't have control anymore at the local level.

Mr. MARTIN. Right.

Mr. DIRIDON. And, as a prior local elected official, that's worse.

Mr. RYAN. That's right.

Mr. DIRIDON. If we can control it here, then someone can come to us; walk around the corner; and come to my house in the evening, and say,

hey, I don't like your plan, change your plan. But, if it's under State or Federal control, they are going to have to go to Washington to have that same kind of hearing. Unless, in a situation like this, you can have the hearings here, which is very rare.

Mr. RYAN. Do you accept the proportion of the funds that would be spent by local government, and the comments made earlier by the staff?

Mr. DIRIDON. Well, let me refine them just a little bit, because I think they might have been misleading.

The principal amount of money that's going to be required on an annual basis for this plan is already committed. This is in the sanitation improvement element. And the local matching fund is guaranteed with the passage of proposition 2, in the election just a few days ago. And the matching Federal funds have already been budgeted in the main. There are a few cases where the grants are still in the process of being pursued. But most of this is already in the process.

I think the calculation was 70 percent of the cost of this plan is either under construction, or in the process of being pursued by grants now. And it's all in the sanitation treatment area, or water plant construction. And I am speaking now of San Phillippe and the other peripheral canal kinds of construction projects that will be coming down the pike in the future.

Mr. RYAN. Why was there no reference, that I have seen so far—and, if there is, please correct me—in all of this to the east bay municipal treatment plant, which is now burning its own sludge as a source of power?

Mr. DIRIDON. This is one of the programs that Mayor Condon objects to. He feels that it's not cost-efficient. Now, it does cost right now, because of the state of the technology, a little bit more than standard treatment of refuse disposal. But, I can tell you that in the future, as we lose our landfill sites—as those sites become more valuable for other purposes—that this is going to be a very viable alternative.

Incinerating solid waste, garbage; recovering metals, and so on, from the garbage is good business. And this is a part of the EMP. And the mechanisms are set up for accomplishing that in a very gentle phase-in sort of way. It isn't forced. But, it's a natural progression of the current plan.

Mr. RYAN. Who puts up the money?

Mr. DIRIDON. The money would come, primarily, from the private sector. And, of course, that's you and me in the ultimate of the cycle as we pay our refuse collection bill.

Mr. RYAN. Is there anything you have up there in Santa Clara County on that?

Mr. DIRIDON. We are hoping to attract one of the three-phased P.G. & E. plants for the area. The plant would take sludge and refuse; grind the refuse; and centrifuge out the water and the metals; take the cellulose and the plastics that result, and incinerate it for power generation; recycle the water; and sell the metals.

We are one of three locations being considered now and would hope to be selected.

Mr. RYAN. Well, you've covered a great deal with that last comment. Because this subcommittee has—prepared, or not—looked into such things as the Baltimore experiment, which has cost Baltimore County \$20 million. At which point, Honeywell got out. And the Feds



came in with another \$20 million, trying to make the pyrolysis technique work. It still doesn't work.

On the other hand, this subcommittee has also gone to some cities in Europe and seen waste disposal plants that have been in operation for 25 or 30 years that operate very effectively and very efficiently.

And if I can give you and Santa Clara County a little advice, I would suggest that you not treat any kind of offer from P.G. & E. as simply a——

A VOICE. Monsanto.

Mr. RYAN. I'm sorry. It's Monsanto, not Honeywell, that constructed the Baltimore plant. Thank you. Be sure and get the right plant there and not lose credibility.

Mr. DIRIDON. We would intend not to subsidize the plant at all.

Mr. RYAN. Well, I'd be very careful. It isn't just a matter of subsidy. I think you'd be a little embarrassed tearing it down if it didn't work, if it's done wrong. The fact is that that kind of a design is very experimental, when there are known technologies already that are well accepted. I think the problem here in this country is that the taxpayers take it very unkindly when a member of the board of supervisors of Santa Clara County goes to Copenhagen and looks at their very modern waste disposal plant. You can go to New York, if you want, or you can go to Saugus, Mass., but you can't go to Copenhagen.

Mr. DIRIDON. Not any more. Maybe I can go to Alviso.

Mr. RYAN. There's one in Saugus you can look at, that's pretty good, too.

The time is up for this morning's session. You will be back here, hopefully—if the waiters and the luncheon places are sufficiently alert—at 1:15. We'll reconvene the committee.

[Whereupon, at 12:15 p.m., the subcommittee recessed, to reconvene at 1:15 p.m., the same day.]

#### AFTERNOON SESSION

Mr. RYAN. The subcommittee will come to order.

I want to apologize to those who are present. But during the hearing we express an intent, not necessarily the fact—cabdrivers being what they are, and lacking change, and traffic, and so on.

Our first witness this afternoon for our hearing is Mr.——

Mr. HASSELTINE. Hasseltine.

Mr. RYAN. Mr. Hasseltine, who is a supervisor of Contra Costa County. Very good. Would you rise to be sworn in? It's the practice of this committee and its subcommittees to swear in all witnesses.

[Witness sworn.]

Mr. RYAN. Thank you. If you will give your name for the record, Mr. Hasseltine.

#### STATEMENT OF ERIC HASSELTINE, SUPERVISOR, CONTRA COSTA COUNTY BOARD OF SUPERVISORS, CONTRA COSTA, CALIF.

Mr. HASSELTINE. My name is Eric Hasseltine. I am a member of the board of supervisors of Contra Costa County.

I appreciate very much the opportunity to appear here today, Mr. Chairman. I do not have a written statement to submit at this time, since I was notified last evening of my opportunity.

Mr. RYAN. Yes.

Mr. HASSELTINE. So I will be talking somewhat extemporaneously. But I would like to address my comments to three particular points.

The first is that this plan, which we've entered into as a cooperative agreement amongst the local governments and interested parties of the bay area, was really designed to meet a set of specific objectives. And these objectives were taken as given—that is, the air quality standards, the rather qualitative water standards, and so forth.

I think the first thing that—from a Federal point of view—that needs to be done is to assure ourselves and to generate some reasonable degree of confidence that the standards are, in fact, appropriate objectives for such a plan.

The idea of taking very specific quantitative pollutant concentrations is in the air on the basis of a no risk philosophy—that is, that the most sensitive person in society, not on any occasion, be subjected to a level of pollutant which might possibly affect them—I think needs to be examined.

The evidence which I have seen—and I've read as much material as I can assimilate and get my hands on—indicates that the Federal standards are very, very conservative, which, I presume, was one of the reasons why they were just recently altered.

The standard which we have the most difficulty with in attempting to generate a plan to meet these objectives, is the oxidant standard. As you undoubtedly know, oxidants in the air consist primarily of ozone, and are produced through a photochemical process through the combination of hydrocarbons, nitrogen oxides reacting in the presence of sunlight. The hydrocarbons and oxides and nitrogen are generated primarily from exhaust of motor vehicles.

So that really leads into the second point that I'd like to make. And that is that it seems to me that if we are really serious about reaching air quality standards, whatever they may be in this country—and if we are really serious about clean air, then we ought to go to the source of the problem.

The 1982 mandated emission standards and emissions controls are available today. The technology is in hand. To go beyond that is going to take, I think, a substantial amount of research and development.

Now, we don't have a problem meeting the standards throughout the 1980's. We do have a problem into the 1990's. Combustion technology, really, has a long way to go, if it is to participate in the meeting of those standards, and, therefore, in the attainment of clean air as defined by those standards.

We've never had to develop technology in terms of propulsion and combustion prior to this time, in nearly as rigorous a manner. We've always had a great surplus of fuel. We've never had a problem with dirty air. And, now, we have both of those problems. The combustion engine, as it exists today, is probably one of the most inefficient devices known to man. There is a great deal that I believe can be done in developing clean engine technology and in developing alternative fuels.

The commitment that is necessary, in my opinion, is going to have to come from the Federal Government. In 1960, we decided that it was important for this country to move into space. The primary objective was to put a man on the moon. We accomplished that in 8 years. It



would seem to me that starting in 1978, or thereabout, looking ahead to the 1990's and the year 2000, when we do not feel that we can any longer meet the standards as they now exist, that with a similar commitment on a national scale, sufficient research and development could be done in this area to meet those standards and to develop clean engines and alternative fuels.

The history of this country, in a technological sense, has always been that we have been able to meet, and, in fact, exceed technological objectives. And I think that the American scientific and engineering community is equipped and prepared to deal with that. What it's going to take is the necessary funding and the necessary priority assignment from the Federal Government.

The third point is that there is a concern here of local government that the planning process, which has always been a localized process in which we attempt to plan for the needs of the people of our communities, our cities, and our counties in an intelligent, comprehensive way, is moving toward increased participation and increased control by regional, State, or Federal agencies.

My own feeling is that the environmental impact considerations need to be a component and a factor in any planning decision that we make, and a definite factor in the overall planning process.

But the process itself should not be so subverted that the environmental considerations become the primary goal of the entire process. In other words, the environmental considerations are one of the factors to be considered along with social and economic impact on what we are doing in our local development and as we progress toward future growth of our communities. It is not that the entire land use planning process is being conducted simply to meet certain environmental objectives.

The most controversial aspect that we got into in the development of this particular plan, of course, was whether or not land use controls were an appropriate ingredient of the plan.

Our conclusion was that they were not. One of the reasons why we felt they were not was that we figured that, philosophically, the control of development belonged at the local level. The second was that in development of our overall analytical tool—a very sophisticated, computerized, predictive model, which allowed us to make some fairly specific numerical projections as to the amount of pollutants to be found in the air in the future—indicated that by the year 2000 that in terms of the total hydrocarbons emitted at that time would reduce the total by about 3 percent if all the land use controls suggested would be introduced. Out of the amount that we would have to reduce the total hydrocarbons to get back to meet the oxidant standards—again, within the accuracy of our calculations—it contributed only 5 percent of that job that needed to be done.

So, those controls were not accepted as part of the final plan, in my opinion, for two reasons:

One is that philosophically they are not appropriate. But, second, the best available predictive, analytical techniques indicated them to be largely ineffective in helping to meet that objective.

Now, many people have espoused such controls for various reasons. And, that's fine. And, if land use controls, for some reason, are felt by the State or Federal agencies to be important, then I think

they ought to be addressed in an independent sense. And, they ought to be addressed on whatever basis they are felt to be appropriate or necessary.

But, it's certainly not in meeting air quality standards. Because, as I say, according to the best tool yet known to me in terms of analytically predicting, the effect of such controls has shown that by the year 2000 they are not very effective at all.

I think overall the major point that I'd like to make is that local governments in this area have responded very well to the mandates of the Federal and State governments in developing this plan and meeting the objectives that we've been asked to meet.

We ask that the plan be accepted as it is, and not subverted to meet other purposes, or other goals and objectives. This is a plan that had very specific goals, certain objectives. We believe that they have been met.

In the event that it can be shown by someone else that in some way the plan is inadequate or fails to meet those objectives, then we would like to have that demonstrated. And, we would also ask that ABAG have the first right to amend or reconsider the plan. That is precisely the reason why a continuous planning process has been set up to address that possibility and that eventuality; that is, if further notifications should be needed. Or, if the uncertainty associated with our predictive approach are demonstrated to not meet the objectives, then we will have to undertake other measures and other alternatives.

So, we have a continuing planning process to evaluate which of those might be the most effective and the most desirable.

So, in summation—first of all, let me just say that I very much appreciate the opportunity to represent Contra Costa County here and to offer my opinions on the subject to you.

But, I see two things as being—well, really, all three of them—as being essential actions at the Federal level.

The first is that we've got to insure ourselves, and raise our degree of confidence that the standards, as they currently exist, are both realistic and practical. I think it stands to reason that air pollution is such a difficult subject to treat analytically, that our measures of predicting do have uncertainties in them. And, the measures taken are difficult to assess.

The idea that at any one point in the bay area, on any one day, a certain level might be exceeded. To devise a plan to meet that kind of a goal, I am not sure, is really a practical goal taken into consideration with all the other concerns that we have in society today.

So, we need some confidence on the standards.

The second thing is, simply, that the necessary research and development to accomplish the technological advances necessary to develop clean engines and/or alternative fuels seems to me to be vital.

And, it would seem to me that the amount of funding that the Federal Government would put into that effort would have to be commensurate with, and compatible with, whatever priority we give the overall objective of clean air.

And, third, of course, we would like to see the local planning process remain under local control. And, we would like to maintain the ability to deal with that as we see fit within our own jurisdictions.



That would conclude my remarks, then. Thank you, very much.  
 Mr. RYAN. Let's take that last point first. Do you believe that this plan allows you to determine for yourself what you want?

Mr. HASSELTINE. Within—

Mr. RYAN. Given the Federal statement that we need to clean up our air and clean up our water, did the act that the Congress passed allow you the sufficient capacity to make that effort yourself?

Mr. HASSELTINE. Well, I believe so. We have some problems, at times, when we are restricted in the construction of local facilities by generalized population projections—zero population assumptions, for example—that, obviously, is not going to work in an area which is rapidly growing. It is, obviously, very easy to meet in areas which have a declining growth.

It's one thing to talk on the average, in talking generalities. But, when you come down to specifics of planning in a local community, you are never going to find the average community. You are always somewhere off the average. And, therefore, your problem either becomes more difficult or more easy, depending on what problem you have at hand.

Mr. RYAN. Are you comfortable with this plan?

Mr. HASSELTINE. I am comfortable with it—

Mr. RYAN. Is your board?

Mr. HASSELTINE. Yes. Because, I recognize the effort that was made. It was a cooperative effort. There were things suggested that I found, personally, objectionable; that my board found objectionable. Most of those have been removed. I think that the philosophy of how appealing it is have to be traded off for how effective it is. If some of the more objectionable components had been shown to be highly effective in achieving the overall goals, I think that, you know, we could have backed off on that. And, it probably would have influenced our thinking a great deal.

But, what we found was that the most objectionable were, in fact, not particularly effective in meeting the objectives of the plan. And, so, the philosophical arguments prevailed.

Mr. RYAN. Mr. Cunningham?

Mr. CUNNINGHAM. If you weren't under a Federal mandate to comply with some of these areas, would you have this same plan?

Mr. HASSELTINE. We would have this same plan in several of the areas, Mr. Cunningham.

First of all, the solid waste management plan was exactly the plan that our county had adopted, and then our section of it goes into that.

Our water supply, we've been very concerned with. And, in fact, I think our county has gone beyond what actually is within the plan itself.

Water quality is something that we are certainly concerned with. And, we've complied with the Water Pollution Control Act already. We have new treatment facilities, and so forth, already going ahead in our county.

If you are asking me whether or not the voters of our county would have approved those bond issues had it not been mandated to provide secondary treatment, I would have to tell you that they probably would not have. It was hard enough to get them to vote, even though we were mandated to do it.

In terms of the air quality, it's difficult to tell. Because, it's very difficult for a local agency to tell how you fit into the overall problem.

One real benefit of this analysis was to be able to identify, I think, the potential value of various approaches to helping to alleviate the air quality problem—improve the air quality, alleviate the air pollution problem.

Many times in considering development requests and growth patterns, you hear from people: Well, we already have an air pollution problem here, you should not compound it by doing this; or, this will lead to this deterioration of air; or whatever.

There's no way to assess, really, what, in your own small area, you are going to contribute to the overall problem. An awful lot of air pollution, probably, generated by automobiles in our county, does not appear as pollution—or does not appear in a deterioration of standards right in that local area, if anywhere.

So, I think, the exercise was very good for us in being able to identify the sources of air pollution for the region. And, how various control measures might impact on an overall air quality effort.

Some of the measures proposed never would have been adopted by us. But, of course, they were dropped out of the plan, too—as I said, the most objectionable ones. The ones that were finally adopted, I think were satisfactory to us, and seemed to be reasonable things to do in light of the fact that there is a problem. Whether or not we would have assessed them to have been essential, or important, in doing our share to meet that overall objective, I can't tell you.

Mr. CUNNINGHAM. There have been two things suggested. One is that this is simply another layer of government. And, two, that it is the potential of eroding local control for local solutions. Would you address yourself to those?

Mr. HASSELTINE. I think that's been a fear, and something that people have been concerned about. I think, as it currently exists, that is not really the case.

I find a great distinction between regional cooperation on problems of a regional nature and what you would call regional government, which I would call another layer of government.

Thus far, the local governments in the bay area have resisted the formation of what I would term regional government. We have agreed to cooperate and work together on problems that are beyond just the local scope. We've agreed to work together to complement each other's activities in learning more and understanding the nature of the problem, as well as the value of various approaches to meeting that problem.

Where we are now with this particular environmental management plan, I do not believe that it can be said that it introduces another layer of government.

Mr. CUNNINGHAM. This morning we've heard testimony from the president of the area supporting the regional government. Do you see a potential confrontation down the road?

Mr. HASSELTINE. Between himself and me on that point?

Mr. CUNNINGHAM. Well, I don't like to put it between individuals. But, say, between the executive board of ABAG and the various local municipalities, be they county or city?

Mr. HASSELTINE. There are regional advocates on the executive



board. My guess would be that the majority of local elected officials in this bay area are not interested in the regional form of government. Certainly, I am not.

Mr. CUNNINGHAM. Thank you.

Mr. RYAN. Should Congress prohibit land use controls? Should we add that to the act?

Mr. HASSELTINE. I am not sure I understand the question. It was my—

Mr. RYAN. Well, the really big objection raised was over the section that had to do with land use controls, which has since been amended out.

Mr. HASSELTINE. That was, certainly, the most controversial.

Mr. RYAN. Yes.

Mr. HASSELTINE. Well, I would prefer to say that it wasn't amended out. Mr. Chairman, I would prefer to say that it was something that was considered and never entered into the plan.

Mr. RYAN. Never put in? All right.

Mr. HASSELTINE. Right.

Mr. RYAN. Whichever way you go. Should Congress prohibit that?

Mr. HASSELTINE. Prohibit not having—

Mr. RYAN. Specifically, explicit in the bay area, should it prohibit it in the Sacramento plan, or the southern California plan?

Mr. HASSELTINE. I think so. I think that our experience has demonstrated that it's not effective. And, I believe that—again, I philosophically feel that it is not the way to go, to have the State or Federal Government enter into land use controls.

It was my understanding that Congress in adopting the Clean Air Act, and subsequent amendments, in fact, has specifically ruled that EPA did not have the power or authority to introduce indirect source controls. And, I agree with that 100 percent.

Mr. RYAN. What about control at the local level? Do you believe you maintain that now?

Mr. HASSELTINE. Yes. Within—anything we do, of course, is only what we are authorized to do by the State of California and the U.S. Government.

Mr. RYAN. Yes. I understand that. But, do you think that you maintain that control with this plan?

Mr. HASSELTINE. I think so, yes.

Mr. RYAN. Do you think that's shared by other county boards of supervisors?

Mr. HASSELTINE. I am sure that it is shared by some other boards of supervisors, yes. I could not say that it's unanimous. But, I believe that it is. I'm not concerned with any erosion of control as represented by the plan which we currently have voluntarily entered into.

And, let me say that, if my board had felt that there was any serious erosion of control I am sure they would have objected to it.

Mr. RYAN. Yes.

Mr. HASSELTINE. And, the fact that all nine counties of the bay area, who are members of ABAG, all voted in favor of the plan, would indicate to me that they are not concerned with any real erosion control.

Mr. CUNNINGHAM. Mr. Chairman, you might be interested in know-

ing that right now in the Senate, there is legislation pending, sponsored by a senior Senator from the State of Washington, Magnuson, to authorize funds for local governments to buy up the development rights. It gets into land-use planning. You should be aware that that snake is alive.

Mr. HASSELTINE. Yes. Well, Mr. Cunningham, that would be the same as any other Federal grant, or Federal program, into which local government enters, in that we would have to look at the conditions under which such funds would be accepted, to see whether or not that would be something that would be appealing to us.

The acquisition of development rights can, obviously, be used to the benefit of local communities in some cases. There are certain areas that, at times, we would very much like to protect, to preserve, for some reason. But, which—under normal practice, and normal approach to land-use planning, in which we usually try to do what is equitable and what is reasonable. And, therefore, allowing one person to do what others have done in a consistent way. It's very difficult sometimes to preserve something of some value to the community for another purpose. Particularly, if the local people will not ban together collectively to purchase it themselves.

The acquisition of development rights, scenic easements, open space easements, and so forth, I think is a very appealing tool, if used properly. The problem has always been the acquisition of funds.

Mr. CUNNINGHAM. And the determination of what's proper for you, or mine.

Mr. RYAN. Thank you, very much, Mr. Hasseltine. We appreciate your appearance.

We have Mayor Ilene Weinreb, I believe, on behalf of the National League of Cities. It's very impressive. Would you give your name?

Ms. WEINREB. I am Ilene Weinreb. I am the mayor of Hayward. I am a member of the National League of Cities, Committee on Environmental Quality. I am the former chairman of that committee.

Mr. RYAN. You follow in the footsteps of a very dear friend of mine in the State legislature. He was at one time mayor of Hayward.

Ms. WEINREB. Carlos Bee?

Mr. RYAN. Carlos Bee.

Ms. WEINREB. Yes.

Mr. RYAN. Rest his soul. He was certainly a very effective spokesman for your area.

Ms. WEINREB. Yes, he was.

Mr. RYAN. We are glad to have you here. And if you can summarize, in any way, your statement, we'll have more time for questions.

Ms. WEINREB. OK. It will be considerably less than 10 minutes.

Mr. RYAN. Fine. Thank you.

[Witness sworn.]

#### STATEMENT OF ILENE WEINREB, MAYOR, HAYWARD, CALIF.

Ms. WEINREB. I come before the committee today wearing two hats; that of the mayor of Hayward, and an active participant in development of the area's environmental management plan; and as the spokesperson for the National League of Cities, the Nation's largest organization representing some 15,000 cities and towns across the country.



As a member of the league's Committee on Environmental Quality, the group responsible for developing national municipal policy on environmental issues, I have been asked to deliver our current views on local government experiences with water quality management efforts required under section 208, of the Federal water pollution control program.

I have had very little contact with the national league office about the development of the bay area's environmental management, or "208" plan, that I'll refer to in the future as the EMP.

Therefore, when I read the national league's comments on experience throughout the country, I was astonished to find how close those experiences were to ours here in the bay area. If I didn't know better, I would have thought NLC's testimony was written specifically with the bay area experience in mind.

Therefore, all I shall add, at the end, is some comment about the three major areas of controversy here in the bay area. For the NLC, I shall address the following points:

First, achievements of the 208 program to date; and, second, prospects for implementing initial plans.

The areawide waste treatment concept called for in the 1972 act was a significant step toward rationalizing metropolitan efforts in water pollution control.

Unfortunately, the impoundment of authorized funds and the complexity and ambiguity of Federal and State regulations and administration resulted in a faulty and somewhat checkered startup of the 208 program.

In most areas of the country, individual facility planning and construction under the 201 program was underway prior to metropolitan planning, which, for the most part, went into full swing in 1975.

We are now at the end of the initial planning phase of 208. Nearly 200 metropolitan areas are approaching completion of their initial 208 plans.

It is the league's view that the 208 program and process has fulfilled its major objectives by curbing the inherent deficiencies in the construction grants program, and rationalizing water quality management in complex urban areas.

NLC believes that the limited investment in 208, thus far, has already paid for itself in discouraging unnecessary and overdesigned treatment facilities.

In a random sample conducted last month, the National Association of Regional Councils documents savings to local, State, and Federal governments in excess of \$150 million.

In its initial phase, 208 has successfully demonstrated that continuing planning and consideration of alternative solutions for water pollution control is the key to cost effectiveness in water pollution abatement.

Beyond the appealing cost savings in capital outlays for waste treatment facilities, the 208 program has brought about significant changes in policies and programs related to water pollution control.

Communities are taking steps to protect critical water resources, and are evaluating their land-use policies for their impact on water quality and future waste water service needs.

They are enacting regulatory programs to control onsite disposal

systems and alleviate the need for more sophisticated and costly treatment.

In short, the 208 program, beyond producing a locally accepted and cost effective regional facility plan, has dramatically increased local sophistication and understanding of pollution and control.

A glance at completed 208 plans, from across the country, proves the fact that the metropolitan waste treatment solutions vary widely, and that the need for good regional planning and local solutions, rather than uniform strategies is real.

There has been some criticism of initial 208 plans for their lack of dramatic institutional solutions to regional water quality programs. The league strongly disagrees with this line of criticism. It is the league's hope that the intent of Congress was not to mandate Federal prescriptions for the nature and form of local government.

The thrust of areawide programs, thus far, has been to create regional mechanisms utilizing existing institutions. Management and implementation responsibilities have been assigned, for the most part, to general purpose local government, creating the least amount of disruption to existing agencies. In our view, this is not a negative result, it is a politically accurate judgment that will insure support and implementation of the plans.

This leads me to the area of much interest to this committee, the ability to implement plans prepared under section 208. As we have indicated, local and regional agencies already have taken many positive steps as a result of 208 planning. In terms of formal implementation of measures identified in initial plans, however, the jury remains out.

At present, initial areawide plans are either in process of local approval or State certification. Very few plans have been certified by the States and approved by EPA.

In many regions, communities are having difficulty assessing their precise implementation responsibilities. There is general concern on the part of local governments about the State certification process.

Obtaining local approval of areawide plans has not been an easy task, either politically or technically. States, which for the most part have yet to complete their statewide plans, are not indicating a responsiveness to regional plans, and local officials are concerned that States will disrupt carefully wrought compromises reached in the region.

There is further uneasiness because of recent amendments to the Clean Water Act, as well as proposals by the EPA to further delegate responsibilities for the water quality management program to the States. Cities are concerned that these new initiatives may encourage States to significantly tamper with areawide plans. If this occurs, the implementation of areawide plans will be seriously jeopardized.

Ability to pay remains one of the critical implementation issues of local concern—obviously so in California, in the face of increasing limitations on local spending. Water cleanup measures will be forced to compete with other services which have large and articulate constituencies.

I am happy to report that here in California, at least on a statewide level, even in the face of public resistance to existing taxes, the State water finance measure to build wastewater facilities narrowly passed on the June ballot. Probably, it passed because people per-



ceived, quite correctly, that if it failed, their local costs would have to increase.

In contrast to the construction grants program, which is largely supported by State and Federal funds, nonpoint source cleanup is presently predicated on local support. Furthermore, the cost of controlling nonpoint sources was grossly underestimated by the drafters of the water quality legislation. The unexpected high local cost resulted in limited recommendations in the initial 208 plans.

Furthermore, although 208 dramatically increased public and government attention to the water quality impact of nonpoint sources, the research was not always able to demonstrate significant need. And, hence, the drafters of the 208 plans were unable to generate a constituency for the program.

The continuing planning process will have to address these and other elements, such as advanced waste treatment, and demonstrate that more than marginal benefit to water quality will be obtained, if additional local funds are to be forthcoming.

EPA has recently released a 5-year funding and management strategy for State and areawide water quality management programs. The EPA strategy correctly recognizes many of the financial and technical problems associated with 208 plans; and outlines concrete steps to improve the continuing planning process, and clarify EPA's implementation expectations. The EPA strategy is important, because it demonstrates the commitment of the Agency for continuing Federal support for State and local planning and implementation.

However, even as we talk today of plans moving to implementation, there is a real doubt that Congress will appropriate adequate funds to do the job. As areawide agencies run out of money, States do not appear ready to replace water quality management funds for regional and local agencies. Without such funds for the continuing planning process, the momentum for implementation will be lost.

The league is convinced that the areawide wastewater treatment concept envisioned by the Congress is sound, and that the initial 2-year planning programs have been extremely successful.

The key to the future and success of water quality management programs will be the continued reliance of bottoms-up planning to meet water quality standards. In such plans lie the answers to the implementation of section 208.

Now, to comments specific to the bay area's situation. Our environmental management plan, EMP, combines planning for water supply, water quality, air quality, and solid waste disposal. EPA and the State encouraged ABAG, as they did COG's in some other regions, to combine these elements. All of these elements are so obviously interrelated that our water quality plan would not be nearly as good without this kind of integrated planning.

First, let me say that ABAG's EMP fulfills legislative intent, as it meets all Federal and State standards. In the plan, itself, there were three major areas of controversy. They were: Land-use controls, transportation controls, and best available control technology—sometimes called BACT—versus reasonably available control technology, RACT.

The first two items, land-use controls and transportation controls, in the original staff draft would promote the so-called "compact growth" strategy. It should be noted that strategies considered and

discarded in the final plan—in both the land use and transportation areas—will be reexamined in future updates, when “fine-tuning” will take place.

The task force and general assembly made a political judgment not to include regional land-use controls in the initial plan, because they felt such controls could significantly change social and economic conditions in the bay area. And, as the supervisor just said, at not a very great cost effectiveness.

A number of transportation controls were included, but, some significant ones were not because the metropolitan transportation commission, or MTC, the body responsible for developing the transportation strategies, felt the cost of the additional measures was unacceptably high. Even those transportation controls remaining in the plan will require significant State and Federal funding.

What was left in was MTC's political judgment as to those measures that would involve acceptable local increases in cost, plus their best guestimates about State and Federal support. MTC recently went through a major controversy when it raised bridge tolls fairly modestly. After that experience, I believe MTC can judge, as well as any group, and better than most, the additional cost the public will tolerate.

The argument over BACT versus RACT was in large part due to a misunderstanding about definitions. That misunderstanding has now been cleared up. What has been accepted by bay area industries and what is in an EMP is the commitment to provide any pollution abatement equipment and technique that is available commercially and at the appropriate scale.

One prominent spokesperson for the industrial community has told me that he believes the controls on industry in the EMP preclude most new large-scale basic industries from locating in the bay area. He is willing to accept this situation, as he believes that the EMP at least allows modernizing and small additions to presently existing bay area industries.

I was part of the environmental management task force which felt—and of the ABAG general assembly, which also felt—that the maximum control strategies that would receive public acceptance, were included in the EMP.

The plan does meet Federal and State standards. And it does represent a genuine political compromise between environmentalists and those who fear thwarting of economic growth.

We who supported the EMP are worried about three things:

One, that either the State or EPA will tamper with our carefully reached consensus.

Two, that the State will not implement an auto emission inspection program comparable to New Jersey, and, hence, stringent enough to meet the EMP standards. And, I respectfully request that you Congressmen, who are from the State of California, aid us in convincing our State legislators of the need for a good auto emission inspection program.

And three, that EPA will not equitably administer the Clean Air and Clean Water Acts, which would mean that the bay area would be placed at a competitive disadvantage with the other metropolitan regions.



If these three fears are not borne out, we feel the 208 process in the bay area will be a resounding success.

Mr. RYAN. With those reservations, I think, that's very optimistic.

In regard to your last comment, I might be more prone to take up your suggestion about talking to State legislators were I not aware of proposition 9. Having been a State legislator for 10 years, I am worried about that.

I think that statement that you've just made, Madam Mayor, is certainly an extremely important one. And, I think, very significant, very comprehensive. And you are to be commended for the succinct quality of what you say.

There's only a couple of questions that I have. On that last page you plucked a very sensitive string. And I quote: "He believes the controls on industry in the EMP preclude most new, large-scale, basic industries from locating in the bay area."

Ms. WEINREB. And, I would say, that for the industrial community to accept that is going quite a ways to improve the environment. It's quite an acceptance.

Mr. RYAN. So you believe that that's true?

Ms. WEINREB. That the EMP will—yes, I do. I feel that it is so stringent in the controls on stationary sources—

Mr. RYAN. The present EMP adopted by ABAG, did your city council vote for it?

Ms. WEINREB. Yes, we did. As did the mayor's conference in Alameda County.

Mr. RYAN. Did you support it?

Ms. WEINREB. Yes, I did.

Mr. RYAN. In spite of what you said there?

Ms. WEINREB. In spite of it. You know, we have to meet the Federal and State requirements. And, I don't see any other way.

Mr. RYAN. Well, there are things that are more important than meeting Federal and State requirements—which is to stay alive.

I think it is important for us to do everything we can, reasonably, to improve the quality of life any place, and any time we can. But, if you talk about balancing a Dow chemical plant—one-half a billion dollars worth of industrial investment, and tens of thousands of jobs in an area where the unemployment has been a consistent and chronic problem, especially in your area, right in Hayward—

Ms. WEINREB. That's right. Absolutely. Higher than the regional average.

Mr. RYAN. Precisely, is higher than the national average.

Ms. WEINREB. That's right.

Mr. RYAN. If you are willing to say that that many people must be condemned to unemployment, to a kind of sagging economic condition, in order to improve the quality to the point of no risk—I am giving you the argument now of those who are flatly opposed—

Ms. WEINREB. Yes.

Mr. RYAN. And, no risk meaning, if there is one person who has a cough because of severe allergies from birth, the existence of that one person must be considered before the jobs of others, who also need to live.

I guess what I am saying is that we are struggling to find some kind of balance. How many people are there in the no-risk category, whom

we suggest very gently, hopefully, that they move to a different kind of climate—in Susanville, perhaps, high and dry, and warm? Instead of impacting all those jobs, and all those people's lives, all those children whose parents cannot live decently. Where do we draw the line?

Ms. WEINREB. Well, you've touched something that I feel very strongly about. We, in Hayward, have worked very hard—

Mr. RYAN. People in Hayward work for a living?

Ms. WEINREB. They not only work for a living, we've worked very hard to increase the growth in our industrial area. And, we've been very successful at it. And, we work very closely with our industrial community.

And, for me to have to accept this is not a happy kind of thing. But, if that is what the State and Federal standards are, then we have—

Mr. RYAN. Are they?

Ms. WEINREB. Yes, indeed.

Mr. RYAN. Should they be?

Ms. WEINREB. Well, what we have asked is that the Federal Government authorize and finance some further studies of the standards to see if they are truly health based.

Mr. RYAN. Yes. But, basically, Madam Mayor, what it comes down to is, who writes the rules.

And, we're from the Congress, and we write the rules, ultimately, I suppose. Or, have the ultimate authority. But, there are serious doubts about our capacity to do so. I express them now for myself, and for others, too. Do we do them as well as you do?

Ms. WEINREB. Well, I think we can in the local area—once you have set standards—come up with the best ways to meet those standards.

Mr. RYAN. Well, all right. We are a little circular there, I think. I appreciate your capacity, your apparent willingness to accept Federal mandate. But—

Ms. WEINREB. It is the industrial community that is willing to accept the EMP as the major spokespeople have told ABAG. And, I think it is, you know, a major concession on their part.

Mr. RYAN. Well, we'll hear from them, too. But, you are the mayor of Hayward. Some time back, Carlos Bee was the mayor of Hayward. About the same time, I was the mayor of South San Francisco. And, when I was mayor of South San Francisco and he was mayor of Hayward, we were concerned about our own people. And, I was convinced then, and I am still convinced now—and I knew more then and the way they thought, than I do now in Congress. And, I depend on you, and others like you, to be respectful, I suppose, of Federal authority—that's always nice—but, to provide resistance where you think your own people are not helped.

Ms. WEINREB. All right. Let me say that, in this respect, Hayward will not be seriously hurt. Because, we do not have the large tracts of land that a Dow chemical—

Mr. RYAN. But, will it be hurt?

Ms. WEINREB. It's hard to know, exactly. I think—frankly, I think other things that I am working on will help us more. I've been working with some of the—

Mr. RYAN. Granted the need to improve the quality of the environment at all times, including pollution, and water, and air. But, we need to assess the damage incurred, and to rate it against the value received in improved quality.



Ms. WEINREB. All right. I guess, I have to say that if these standards are truly health based—and, I do not mean to the extent that if one person, who has extremely sensitive lungs is hurt, that the standard should be based I don't mean that. But, I do mean, if they are based on what is healthy for young children.

Mr. RYAN. In general?

Ms. WEINREB. Yes, in general. That—yes, I do accept the fact that if some limit on some industrial growth is needed—you know, from the point of view of the health of the community—that's the price we have to pay.

Mr. RYAN. Let me ask you another thing, just very quickly. Do you believe that the Federal support of 208 planning ought to be continued?

Ms. WEINREB. I hope it will be continued.

Mr. RYAN. What if it is not?

Ms. WEINREB. I do not know, particularly, in California, at this point, where we would get the resources to continue it. And that it really would be sad. Because, we have built a voluntary, cooperative effort with segments of the bay area community that was not here before. And, I would hate to lose that momentum.

Mr. RYAN. Do you favor the continuation of State and Federal support for the implementation of 208 plans?

Ms. WEINREB. Yes, I do, very strongly.

Mr. RYAN. What if they don't?

Ms. WEINREB. I don't know if we could continue it. We would certainly try.

Mr. RYAN. What about if the Congress is infected by, or reacts to, proposition 13, and cuts off the money?

Ms. WEINREB. We would try—

Mr. RYAN. The Jarvis-Brown initiative—

Ms. WEINREB. Jarvis-Brown. [Laughter.]

Mr. RYAN. That's Mr. Cunningham's reference, not mine.

Ms. WEINREB. All I can say is—because I feel that we all—all the cities impact on each other and the best planning when you are talking about water quality and air quality, is that planning which is regional. If the planning is done jointly, I would do my best to provide our share of the cost. That's all I can tell you. Because, I think it's terribly important.

Mr. RYAN. Do you feel that you were under pressure to approve?

Ms. WEINREB. Only in the sense that—as I understand the Federal act—there does have to be a plan. And, if we did not, then either the State, or EPA, would, of necessity, have to come up with a plan. And, I am much more comfortable with what we did than with something that they might do.

Mr. RYAN. Is it fair to say, then, that you felt a kind of Federal pressure to approve this plan?

Ms. WEINREB. I would—that would be fair.

Mr. RYAN. OK. Thank you, very much. Ms. Weinreb, you've been an extremely excellent witness in the tradition of great mayors of Hayward.

Ms. WEINREB. Oh, thank you.

I wonder if I might answer some of the questions that were asked of the supervisor? Because, I did have, I think, a little more detail.

Mr. RYAN. Please do, yes.

Ms. WEINREB. One of the questions asked was: What does this 208 planning do that would not have been done before? I don't remember which one of you asked that question.

Without the 208 legislation, I do not feel that we would be pushing an auto emission inspection plan. And I do know that that will be very significant in reducing the tonnage of hydrocarbon.

And I do not believe we would have examined, in detail—and we have in Alameda County—a streetsweeping program. And we hope to implement it on an experimental basis, to see what better street-sweeping will do to reduce the pollution of our streams.

And so we are taking a more serious, much more serious, look at these things.

And you asked—someone asked—should Congress prohibit land-use controls as an acceptable strategy? I don't believe Congress should. Because, even though we eliminated them from the EMP and I did not feel that they should be in this plan, I don't know that that would be true of every region. And so I feel that Congress should really allow the maximum flexibility for a region to come up with its own solutions.

Mr. RYAN. Very good.

Ms. WEINREB. And then you asked about another layer of government. Is this another layer of government? Is this increasing regional government? And my answer is: We have a multitude, now, of regional governments. And this—

Mr. RYAN. Yes. This would consolidate them.

Ms. WEINREB. And I personally would like to see them consolidated. But I think I am a minority view in that respect.

Mr. RYAN. Thank you very much.

Ms. WEINREB. You're very welcome. Thank you for the opportunity.

Mr. RYAN. Madam Mayor, you are a very excellent witness.

Ms. WEINREB. Thank you.

Mr. RYAN. The next witness will be Alameda County Supervisor Fred Cooper.

Mr. COOPER. Do you want me to proceed?

Mr. RYAN. Please, sir.

[Witness sworn.]

#### STATEMENT OF FRED F. COOPER, SUPERVISOR, ALAMEDA COUNTY BOARD OF SUPERVISORS, ALAMEDA COUNTY, CALIF.

Mr. COOPER. I am Fred Cooper, county supervisor, from Alameda County. The district I represent consists of the middle-class city of Alameda and the flatlands of East Oakland, which are predominantly minority and working class.

And it is in East Oakland that we have groups with unemployment rates of 20 to 40 percent, particularly young people who are members of various minorities.

Mr. RYAN. That's Robert Crown country, the late Robert Crown.

Mr. COOPER. Yes. Right. I first ran when he was in the assembly and our districts were largely coterminous.

The people in East Oakland, which has clean air, are naturally con-



cerned much more about jobs than they are about cleaning up the air in Livermore and San Jose. And, I think one of the things Congress needs to look at, particularly, since the President recently came out with his urban strategy, is the conflict between jobs and the environment, and the impact of some of the rules on polluting the environment of urban core cities with unemployment in order to concern ourselves with pollution in other parts of the area.

One of our concerns, naturally, has to be Federal mandates, such as the Clean Air Act, which impose major costs on local government, in the wake of Jarvis-Gann. And, I am sure that's a subject you've already considered. We have been fighting unfunded mandates on local government in California. And, I, in particular, have been fighting mandates from the State legislature for the past 5 years that haven't been funded. And, to the extent we get them from the Federal Government, in the wake of proposition 13, it's impossible for us to meet them without seriously jeopardizing governmental services.

We are concerned with the standards. One of the concerns is background hydrocarbons. I sent Congressman Ryan a copy of an article of May 31, from the San Francisco Chronicle, which indicates that there seems to be a correlation between rainfall and smog. And, that winters with heavy rainfall result in more vegetation, and seem to result in more smog. And, I think, there was a study of Lake Tahoe which indicated that any area with large pine forests, as that has, can never reach the Federal standards, because of the hydrocarbons from the vegetation.

I think it's important, unless we make major changes in the standards, to tie that down and determine just what natural background hydrocarbons are, and adjust the standards to fit actual reality.

Another of my concerns has been that we appear to be setting the standards—oh, I would first like to say, EPA recently adjusted the standards, and I think that's a step in the direction of reality. And, it's also a step in recognition of the fact that the standards are not really perfect, or cannot really be objectively established. But, to have 1 hour a year, or 1 day a year, as a minimum, is just totally unrealistic at least, if the background of the hydrocarbon problem is a real one. And, it seems to be.

Second, it seems to me that in the bay area, for example, we may be substantially affecting and worsening the lives of 99.9 percent of our population, in order to protect, perhaps, one-tenth of 1 percent or one-hundredth of 1 percent of the population. And, in a time of physical limits, we ought to consider, at least, studying the possibility of determining who the one-tenth or one-hundredth of 1 percent are, and providing them with homes and cars that have air-conditioning, rather than us spending hundreds of billions of dollars to inconvenience and jeopardize the jobs, and the basic governmental structure for everyone else. I don't know whether that would work. It seems to me, though, that if we have physical constraints, we ought to, at least, explore that. And, I don't know if those people can be identified. But, it seems to me that somebody must have identified them to set any kind of standards.

And, I am not advocating we do that. I am advocating that we explore that. And, that EPA be asked to look at that and what are the pros and cons of that kind of approach. Special protection for the

people that need it, rather than changing the whole economy, and the whole structure of government for what appears, at least, to be a fairly small group.

Another of our concerns with the standards is lowest achievable emission rate (LAER), which tends to ignore the economics. And, if you look at our balance of payments, and our unemployment rates in the core cities, we have to ask the question: How many jobs can we continue exporting to other countries? And, I think that's something Congress has to look at—not only in relation to the Clean Air Act, but in relation to a lot of other programs.

And, I have to confess one of the reasons I've never run for Congress is to be able to avoid some of those problems that are simply too technical, or too many proposed solutions, or too interwoven with other problem solutions, to really address reasonably.

Mr. RYAN. Another reason is the weather; 90-percent humidity is rotten.

Mr. COOPER. I always enjoy going to Washington, because of the change of pace. But, the enjoyment is enhanced by the fact that I know I am not going to be there very long, especially during the summer.

Mr. RYAN. Oh, how that hurts.

Mr. COOPER. The final concern I'd like to express is what you've—you've raised it with the previous witness. And, that is our concern about Federal requirements, State requirements versus local.

I am told that I should serve on the ABAG environmental management task force and the bay area pollution control district in order that local government can set the rules. And, if we don't do that, then the State or Federal Government will do it for us. And, to participate in that at the expense of a great deal of my time and effort, and a great deal of involvement in things extraneous to my usual job—or, partially, at least partially extraneous—to be told that the State is going to change it anyway, or the Federal Government will change it anyway, kind of disheartens one. And, at some point, you'd have to say, well, why tell me to come down here and have local government get involved, and set rules that we think we can live with. And, then, be told that, while you are doing it, if you don't do A, that you're going—or B, that they are going to do it to you. And, then after you finish you find that they are going to change the rules. And, I think that needs to be looked at, as well as the question of uniformity of enforcement and uniformity of rules.

Mr. RYAN. Do you support the plan as presently voted?

Mr. COOPER. Yes. I think, like most people, I support it, but not overly enthusiastically. I think it's a reasonable compromise. And, I support it only if I can be sure that Congress and EPA are going to provide similar enforcement in the rest of the country. That we are not going to be at a competitive disadvantage because we've gone further, faster, than our competitors in the rest of the country.

Mr. RYAN. Then you believe that, lacking other kinds of pressures elsewhere, it would put us at a competitive disadvantage in an economic sense?

Mr. COOPER. Yes. We are, even with this plan; because we have gone further, faster, in California than other parts of the country. We do not have trade-offs that other parts of the country are allowed. I think



Oklahoma City just got a trade-off in terms of providing floating lids on oil storage tanks. Well, we've required that. Now, unless you give us a right to retroactive trade-offs, we are at a competitive disadvantage in the sense that most of our rules are ahead of the rest of the country. And, even if we can work out a reasonable trade-off rule, because we are ahead on the regulations, it's not going to do much good.

On the other hand, one of the points we need to remember is that last year, 1977, was the cleanest air year in the bay area on record.

We are continuing, at the air pollution control district ward, of which I am a member, to adopt additional regulations, additional tightening of the rules, particularly for solvents and paints. And, we continue to improve the air, even without the EMTF plan.

Mr. RYAN. The other thing under the question I have is your reference to no-risk attitudes, the one-tenth of 1 percent against the 99.9. Where do we draw the line?

Mr. COOPER. I don't know. That's why I am saying it should be studied. I don't know whether that approach is a valid one, or not. But, I don't see that it's been studied. And, from what I've read of the EPA studies of the standards, it appears that their concerns for health apply to a very small percentage of the population, when you get down—

Mr. RYAN. Of course, part of our problem is the fact they didn't count that well. Now, we never used to be able to, but now we can. So, how many does it take?

Mr. COOPER. Yes. I mean, if they are going to say: We've got to set it at 0.10 instead of 0.15, then they've got to be able to say who it is they are trying to protect, and identify those people. And, then—

Mr. RYAN. Do 17 people in the bay area, who have asthma because of some rare emission, produce enough to trigger the loss of 2,000 jobs?

Mr. COOPER. Well, that may be the figure. It may be higher; it may be lower. I don't know.

Mr. RYAN. Whatever it is. Yes.

Mr. COOPER. It may be that another approach would be to, you know, if there are five of those people in Livermore to say, you know, we'll air-condition your house and your car. Or, we'll pay if you want to move to San Francisco, where you don't have the problem. But, I, again, you know, I'm not advocating it. Because I really don't know enough about it. I think it ought to be studied.

Mr. RYAN. Thank you very much, Mr. Cooper.

Supervisor, may I ask you if you believe you were subjected to inordinate pressures from the State or the Federal Government?

Mr. COOPER. Well, I tend to resist pressure more than some other locally elected politicians.

Mr. RYAN. I think I've heard that you have that reputation.

Mr. COOPER. I think that the argument is made continually: Unless you do A or B, they are going to ram it down our throats. And, to that extent, there is pressure on everybody. I generally—I have said—made the same speech at the air board frequently. When somebody says, well, we ought to adopt this; or, we ought to approve this because the State ARB says we should; or they are going to require it of us; or, they'll adopt it if we don't. And, I automatically, now, after some practice, bounce back and say: Listen I came down here

because I am told that if we don't do it here, they'll do it. Now, if you are going to use that as an argument that I should do something, then I'd just as soon disband this agency, and let them do the whole thing.

Mr. RYAN. Yes.

Mr. COOPER. And, I, you know, I am sure our staff can give you a number of examples, like: Nozzles in gas stations, floating tank—primary and secondary seals on oil storage tanks. Where we've had disputes with the State and felt that they were wrong.

Mr. RYAN. I wonder why the Federal Government doesn't pursue their own kinds of cleanup and conservation of energy in the buildings they own, and in the encouragement of development of solar energy, which is a constant source once the capital investment is made. Well, that's, I guess, an idle conjecture—

Mr. COOPER. I suspect the Congressman can answer that question better than I can.

Mr. RYAN. If we could, I'd like to hear it.

Thank you very much, Supervisor Cooper, for a very excellent statement.

Mr. COOPER. Thank you.

Mr. RYAN. Our next witness is from the business community. Mr. Angelo Siracusa, executive director, of the Bay Area Council.

[Witness sworn.]

**STATEMENT OF ANGELO J. SIRACUSA, EXECUTIVE DIRECTOR, BAY AREA COUNCIL, INC., SAN FRANCISCO, CALIF.**

Mr. SIRACUSA. Members of the subcommittee, I am Angelo Siracusa, the executive director of the Bay Area Council. The council is a non-profit organization formed in 1945. It was supported by about 300 business firms, primarily major firms headquartered in the San Francisco Bay area.

Our mission is to bring economic considerations to bear on public policy issue at the bay area level, and to involve the business community, hopefully, in a positive way, in the governmental process.

We were the official business representatives on the ABAG environmental management task force. We devoted considerable time of our staff to this effort, and attempted to serve as a catalyst for corporate technical input into this process.

I intend to focus my remarks today on the air quality element of the EMP, as well as the Clean Air Act, because the air issue is the one which has the greatest impact on public health and on the economic, social, fiscal, and political vitality of the region.

I think it is fair to say that the private sector, generally, is not particularly happy with the mandate of the Clean Air Act. We suspect the standards established, particularly the oxidant/ozone standard, far exceed what is necessary to protect public health.

But, more importantly, we fear that the achievement of air quality standards, especially within the time deadline contained in the 1977 amendments, will very likely create unacceptable economic and social disruption in many of the nonattainment areas. This doesn't even speak to the problem of some nonattainment areas that probably cannot achieve those standards under any circumstances. I speak specifically to the Los Angeles air basin.



But, given the Federal charge, we are relatively pleased with the outcome of our own air quality maintenance plan. We probably would not have embodied this, except as a result of the Federal mandate. We recognize, of course, that it is a first attempt, and that there must be an ongoing assessment of the costs and impacts, as well as the air quality benefits.

The assumptions, the methodology, and the data gathering, are somewhat suspect, and, yet, are probably the best that is available anywhere in the country. The science of air quality modeling is still in its very preliminary stages. The cause and effect relationships between emissions and subsequent air quality are still not completely clear.

But, again, we believe that we have developed something that is a reasonably good first step in a local response to a Federal mandate.

The charge to the environmental management task force was to develop a plan which met Federal requirements, but was not so economically and socially disruptive as to be unimplementable. Part of the work program, then, was to evaluate the economic and social costs and impacts of such an environmental management program.

Frankly, we believe that the cost figures are grossly understated.

Speaking specifically to the direct costs imposed on existing industry, the plan estimates that an annual outlay by industry—annual, that is—of \$18 million over the 23-year plant planning period.

These figures were developed using an unrealistically long 25-year equipment life, and a 6½-percent discount rate, the rate which is used by the Federal Government to calculate financing costs on municipal wastewater treatment plants. These rates do not reflect the marketplace. Using a more realistic amortization schedule of 10 years on such equipment, and the current estimated discount rate of 15 percent, those costs would be an annual of \$43 million. And, frankly, we think that that's not what the total price tag will be of the private sector in the bay area.

Nevertheless, we must admit to you, that there is no way to know what the effect will be with respect to the closing down of industry, or the retarding of the expansion of industry. It is impossible to project what those effects will be.

We are willing to project that some of the, roughly, 5,000 existing businesses affected by the plan can't, or will not, assume the cost of retrofitting their facilities with pollution abatement equipment, and will close down.

We are especially concerned about the obstacles created for industries that wish to, or need to, expand. Or, for industries not now located in the region, but considering new facility sites. Many of these firms may be forced to serve our growing market opportunities from other locations.

At the present time, the plan only calls for a case-by-case offset program. Added to the already high cost of doing business in the San Francisco Bay area, and what is commonly accepted in the business community as a poor economic climate in California, we don't believe that most industries are willing to buy up pollution rights in order to have the privilege of constructing or enlarging a manufacturing plant in the bay region.

It is ironic that we have penalized ourselves by doing such a good

job of reducing emissions. The most restrictive limits on future economic growth tend to be imposed on areas, such as ours, that enforce the most restrictive emission limits. Because, such areas now have the lowest baseline from which to seek further reductions to provide emission offsets.

This means that jurisdictions that have not acted aggressively to curb air pollution problems will now be rewarded by obtaining an advantage in attracting new industries that result in future economic growth.

A lot of this, of course, will depend upon what other nonattainment areas do. But, as long as we are the first to have developed a plan, and have an offset program that is considerably more stringent than required in other parts of the country, we believe that industry, which, over the next several years, will have to complete the abatement of pollutants from current operations, will lose the availability of internal offsets. And, thus, will have great difficulty modifying and expanding their plants.

Only small, uncontrolled area facilities, such as corner drycleaners, will remain as sources for offsets after January 1980.

The EPA has indicated that it intends to conduct a study of techniques for including growth increments for new industry in State implementation plans. We urge your subcommittee to promote this concept and to monitor EPA's efforts to develop alternatives to the case-by-case offset approach. EPA assistance will be critical in view of the limited local resources that can be expected during the first stage of the continuing planning process.

Without an increment for industrial growth, or without other than the case-by-case offset program, the current plan will not allow for industrial development of firms now subject to the new source review rule.

I think there is one thing that we really ought to emphasize. There have been articles in the press—and you will hear testimony today—that the plan is inadequate, because it does not include land use and transportation controls.

While those measures have been eliminated largely on political grounds—not a bad reason in itself—there was, in our opinion, insufficient technical justification for their inclusion in the plan. The negligible air quality benefits were outweighed by the uncertainties and relative costs associated with such controls.

In the future we may have to revert to more indirect controls, but we have developed in our first plan the most reasonable approach, and have adopted the measures which show the most significant air quality improvements.

To add the others at this time would continue to embroil this plan in political controversy for no purpose having to do with air quality. The plan is technically, statutorily, procedurally, and politically, defensible. It is not deficient to meet the spirit and letter of the Federal law.

I don't think we should downplay the effects of the Jarvis-Gann initiative, and the very real taxpayer revolt, on this planning process and on other environmental programs. We are not in any way advocating that we abandon our efforts to clean up the environment. However, it is absolutely essential that we do a better job of balancing costs and benefits.



This is what President Carter's economic advisers have been saying in recent weeks, and we strongly support this statement. We question whether Congress has been sufficiently sensitive to the inflationary effects and the direct costs that stem from implementing the Clean Air Act.

Let me, in the brief time I have this afternoon, cite one of the central problems inherent in the policies of the Federal act, which Congress must address in short order, if the act is to be workable.

I refer to the basis for setting standards. The act instructs the EPA Administrator to set national ambient air quality standards to protect the health of the public, allowing for adequate margin of safety. And, of course, you've been hearing some testimony about what that standard ought to be. This is interpreted by EPA to mean that even the extremely small part—as Supervisor Cooper said, the 0.001—part of the population whose chronic illness makes them sensitive to the slightest degradation of pristine air, must be protected.

And, the margin of safety factor results in setting standards considerably below the threshold where effects can be observed under laboratory conditions.

Review of scientific literature indicates that adverse physiological changes cannot be detected below a threshold of 0.15 part per million. Yet, the Administrator recently decided to set the standard at 0.10, a 33-percent margin of safety. Each 100th part per million, represents millions of dollars of investment, which have an inflationary effect, and which could be used elsewhere, both in the public and private sectors.

In a world where resources must be allocated to accomplish many worthwhile social goals, we doubt that the country can afford to satisfy this mandate.

We recommend that your subcommittee begin to consider a more realistic objective for air quality. The Administrator should be directed to prevent levels of pollution, which will cause an unacceptable health risk to a significant portion of the public, using a margin of safety that varies according to the damage associated with different pollutants. In the case of ozone, for example, the margin of safety need not be as conservative as the margin for toxic pollutants.

I cannot tell you, really, what the standards ought to be for public health. Our organization does not have the scientific competence to do that. However, I think it is important that you ask EPA to defend its technical analysis, when they have such staggering implications for our economic and social well-being.

It is paramount that Congress look at the underlying philosophy of the Clean Air Act to determine whether the so-called no risk philosophy is a valid one in light of all the conflicting public needs and goals, and the limited resources.

We, frankly, don't have the answers to these questions, but we think that Congress has passed a law without, itself, answering them—answers which, I believe, are absolutely essential, if public officials are to act responsibly on such important public policy.

I'll be very happy to answer any questions.

Mr. RYAN. That's an excellent statement, Angelo. I appreciate it.

Mr. Cunningham?

Mr. CUNNINGHAM. Well, I'd like to ask a couple of questions.

Well, I always take a little umbrage when business runs this scare tactic of saying that they are going to shut down. And, you've mentioned that there are certain businesses within 5,000 that could shut down because of this. Would you like to elaborate on that?

Mr. SIRACUSA. Yes. I think I'd be very pleased to. I might also take umbrage at businesses who say they are going to shut down. And that's why I refuse to make any particular projections at the number of industries that will, or the number of the jobs that we've lost. But, I am willing to say, without any fear of contradiction, that as a result of this, certain industries will have to shut down.

I am not saying that this is going to be the sole cause. But it is a fact that the bay area is already at somewhat of a competitive disadvantage, as a result of other forces which are not necessarily Government imposed—either high labor costs, or other effects on the marketplace, as well as local government regulation.

Add this to that—and there are already industries that are closing down for various reasons—I believe that there will be a toll taken.

Mr. CUNNINGHAM. Well, I'm just going to pursue this a bit. I've been in business all my life. And, I am new to politics. So I just—you have high labor; you have high transportation; you have high utilities; you have a lot of high costs, rules, and regs.

You say that the clean air standards are too stringent, and too tough. If you are qualified to say that, why aren't you qualified—and I am talking about your association, not you, personally—why aren't you qualified to say what the standards should be?

Mr. SIRACUSA. I'm sorry. The portion of my testimony that dealt with bay area businesses closing down had to do with our adopting a plan here, before other areas have adopted their own plans. I can't—I honestly can't tell you what the national effects will be, if this thing is uniformly enforced around the country. I don't know that.

But we have—by virtue of our being the first to go with this plan—I believe, have placed ourselves at somewhat of a competitive disadvantage with other areas. Now, I can't document. And I would be foolish to you to say that.

Mr. CUNNINGHAM. My second question is that in your testimony you say that the standards are too high; they are too stringent. But, then, you also say you're not qualified to say what they should be. What gives you the right to say they are too high, if you're not qualified to say what they should be?

Mr. SIRACUSA. Well, what I said in the testimony was that we were quoting from some scientific journals that said that they were too high. And, I guess, I would have to believe that scientists, as well as politicians, and businessmen will tend to disagree.

Mr. CUNNINGHAM. Yes.

Mr. SIRACUSA. But there seems to be some scientific evidence that they can be higher. And that was the citation I was making. I cannot tell you whether they ought to be 0.10, 0.11, 0.12, 0.13, 0.14, 0.15. But what I am saying is that, I think, that there probably could be for medical health reasons, a higher standard without jeopardizing our population, if I am to believe the scientific journals that we've been seeing.

Mr. CUNNINGHAM. But, do you feel the determination on closing of a plant would be made solely on the compliance with that standard;



or would it not be made on whether or not the plant, itself, was economically viable; whether or not the depreciation had been used; whether there would be an adequate time to relocate? I don't think you should say that environmental quality is a sole concern factor in plant closing.

Mr. SIRACUSA. I didn't say that.

Mr. CUNNINGHAM. But you've implied it.

Mr. SIRACUSA. No, I'm not. I'm hoping I'm not.

Mr. CUNNINGHAM. Business says this all the time.

Mr. SIRACUSA. My testimony said that, coupled with other conditions in the bay area, the meeting of the standards will add one more burden that will probably be one of the straws that will make certain industries close down in the bay area. And, I'm—

Mr. CUNNINGHAM. You say, that, "We are willing to project that certain of the roughly 5,000 existing businesses affected by the plan can't or will not assume the cost of retrofitting their facilities with pollution abatement equipment and will close down."

Mr. SIRACUSA. What—where are you reading from?

Mr. CUNNINGHAM. That's on page 3, second paragraph.

Mr. SIRACUSA. "Added to the already high cost of doing business in the San Francisco Bay area \* \* \* we don't believe that most industry are willing to buy up pollution rights."

Mr. CUNNINGHAM. But, that's a second—that's—

Mr. SIRACUSA. It's in the same paragraph, sir. I'm trying to put this in context. I hope that I am answering your question. That, I don't believe that pollution control, in itself, will be the straw that breaks the camel's back.

Mr. CUNNINGHAM. You don't, OK.

Mr. SIRACUSA. But, added to all the cost of doing business, it will be one of the factors.

Mr. CUNNINGHAM. I would agree with you on that point. But, I just wanted to clarify that your statement isn't that there are some 5,000 firms solely because of environmental quality could shut down.

Mr. SIRACUSA. The point I am trying to make here is that with the new regulation, we have about 250 firms in the bay area that are now subject to what is called new source review rule because of the threshold limits. With the new regulation, that number will increase to 5,000. I am not trying to even hint that there will be 5,000 closures, if that's what you are getting at?

Mr. CUNNINGHAM. Well, yes. I would imagine that \$43 million in cost against some \$12 billion in capital investment is not going to jeopardize that capital investment.

Mr. SIRACUSA. I think it will jeopardize some of it.

Mr. RYAN. Would it be fair to characterize your testimony in support of this environmental management plan as kind of reluctant "yes"?

Mr. SIRACUSA. Well, we are pretty enthusiastic about the plan in light of the mandates. But, the mandate makes us a reluctant bridegroom, yes. I would say so.

I notice that you asked Mayor Weinreb, you know, whether if we had our druthers, whether we would have gone into this voluntarily. I don't think we would have. I am not speaking just for the business community. I think I'm speaking for the cadre of people in all arenas

in public life, who are involved in this. I think that they looked upon this as a mandate that Congress had acted with, or without, wisdom, and, that we had to come up with a plan that met that. I think it was made fairly clear to us that if we didn't, that the Federal sanctions, primarily the withholding of funds, were going to be automatic. And, I think that everybody was pretty reluctant in this process. But, it is the Federal law.

Mr. RYAN. Yes, well, the Federal law isn't necessarily always pure perfection.

It's always seemed rather strange to me that the Federal level can force local government and business to comply with standards, when the Federal Government itself is so reluctant to provide the best example.

I think that what the Federal Government might do in the saving of energy, for example, by simply retrofitting all of its buildings to store heat, and cool it. And thereby reduce the level of energy consumption. When energy, itself, is the largest single force behind inflation. Therefore, a negative effect on business and growth.

It seems to me a strange kind of circumstance where the Federal Government would urge the consumption of nonrenewable natural resources—coal, oil, and the rest—and at the same time discourage the growth of solar energy, which is once invested, a permanent source from then on.

I guess I say these things because in these hearings, at least so far, the witnesses we've heard seem to say: "Right, we should do what we are told to do; and, we will try to do the best we can, like the good soldiers, without any more biting back," when you see the negative effects and you see the lack of capacity of the Feds to clean up their own house.

I don't invite you to engage in any kind of broad-ranging criticism of what we are not doing, but—while your comments are well taken—I am impressed, I guess, by the almost universality of the comment that, "Well, it's the best we can do, given the choice"—when, actually, there is no choice.

I wonder what will happen—and, if you have any comment, or if you have studied and considered in the Bay Area Council—what may happen if the State air and resources board and water quality control board, or the Federal authorities, throw it out, and say: "Here's what you're going to do now whether you like it or not."

Mr. SIRACUSA. I, frankly, don't see that happening. I think that the State air resources board has made some noises that it would like to strengthen the plan. I think that would be unfortunate. Because, I believe that in spite of the Federal mandate, which we might be critical of, there was also a very good opportunity. And, that was: Here is how you get from point A to point B—I mean, here is what you have to do to get from point A to point B. You get there the way you want. And, we did it, I think, through a fairly acceptable technical and political process.

And, I think that the Federal or State government intervening and saying that what we've done is inadequate would not likely be done on a technical ground, more on political. And, I think that would be unfortunate. Because, we have a very good plan, that, I think, can get us to a standard. I don't know what we are going to do in other non-



attainment areas, where I think it is going to be technically impossible to do so. But, I think, we have a plan that, at least, gets us moving in that direction, anyway.

I think that the EPA ought to be proud of what's happened here. It's been a case study, and, I think, a very good one.

Mr. RYAN. Are you worried, as spokesman for the Bay Area Council about losing whatever competitive edge you may have with other areas in the country for business?

Mr. SIRACUSA. Yes; we've been talking about that. And, this is really what my answer was intended to be to Mr. Cunningham. That we have oftentimes by our own choice and our own actions chosen to accept standards that are higher than the Federal standard. And, that, in itself, probably places us at a competitive disadvantage.

We have seen—and you talked earlier about the Dow Chemical problem—where we openly, and purposely, rejected an industrial company because of our interpretation of a Federal statute. An interpretation that was not being made in other parts of the country. And, so, we think that this whole question of uniformity needs to be addressed. That there are other parts of the country that are closing their eyes to these kinds of problems. And, because we have chosen to be a little more environmentally aware, we have placed ourselves at that sort of a competitive disadvantage.

Mr. RYAN. Thank you, very much.

Mr. SIRACUSA. Thank you.

Mr. RYAN. Glad to hear from the Bay Area Council, anytime.

Mr. Charles Kinney, Associated Building Industry of Northern California.

[Witness sworn.]

Mr. RYAN. If you could limit your remarks in any way, although they are very short here, I would appreciate it.

#### STATEMENT OF CHARLES KINNEY, GENERAL COUNSEL FOR ASSOCIATED BUILDING INDUSTRY OF NORTHERN CALIFORNIA

Mr. KINNEY. I appreciate being taken out of order. As you can see, my comments are limited to about four pages.

I think there are sufficient copies for everyone in the audience.

Mr. RYAN. Good.

Mr. KINNEY. We can just dispense with going over that, and go straight to whatever questions you may have.

As a preliminary statement, the ABI board of directors never endorsed the plan, as either drafted by staff or as currently being sent to the various agencies.

That is not to say we feel that the ABAG staff and all the participants, including ourselves, didn't do a good job. We think that everyone did do a good job. But, there are various reasons why my board did not endorse the plan. One reason, I think, is that some are not totally sold on regional government.

Mr. RYAN. Maybe, we can begin then. We will accept your testimony as part of the record.

And, if I can just ask you a question, then. If I can proceed as I have with other witnesses.

Does your association—does your group sponsor, or are they in sup-

port, and are they in approval of the present environmental management plan approved by ABAG?

Mr. KINNEY. Our association has not endorsed the present environmental management plan.

Mr. RYAN. OK. Very good.

Second question has to do with whether you believe there was undue pressure placed upon your organization, or any organization, to support this particular version?

Mr. KINNEY. I think there was undue pressure in light of some of the letters that were sent to the representatives of the ABAG operation, both at the staff level and at the public official level. In particular, for example, a February 6, 1978, letter, to Diane Feinstein, who was the chairman of the environmental management task force at the time, from Mary Nichols, the vice chairman of the ARB, who now has left to become involved with the Los Angeles County attorney's office, I believe.

Do you have a copy of that letter?

Mr. RYAN. We do have that, yes.

Mr. KINNEY. Then, there is some correspondence between Assemblyman Dan Boatright and Tom Quinn. I assume you have copies of those.

Mr. RYAN. And we have those, too.

Mr. KINNEY. I echo Supervisor Cooper's statements that at certain levels here, various agency staffs tend to indicate which way they would like elected officials to go in the bay area.

We have made a strong case for the housing industry that we are being regulated, essentially, out of existence, for various reasons.

The phrase that I particularly like is from Tom Quinn to Danial Boatright, of April 13, 1978, which starts out:

DEAR DAN: Thank you for advising me of your concerns about how California intends to comply with the Federal Clean Air Act requirements in the bay area.

I don't know if Tom Quinn speaks for all of California. I guess he was given that power. But, I do appreciate the Federal Water Pollution Control Act amendment which allows regional joint power agreements for groups of people to get together and create a plan. What I do not appreciate is the Federal Water Pollution Control Act amendments used to comprehensively plan. To that extent, air quality agreements—or agreements reached under Federal Water Pollution Control Act amendments on air quality, are being turned into "memorandums of understanding" currently being agreed to by the air pollution control district, ABAG, and the metropolitan transportation commission.

I refer you to the most recently approved "memorandum of understanding." I don't have a date on mine. It refers to ABAG as the lead agency. This is fine, if you accept that, ultimately, all regional agencies will be combined into one. I am not so sure that they will be. I am not so sure that the various regional agencies that are currently in existence, such as the regional water quality control board, have been single-purpose agencies.

For example, the home building industry has been under a mandate of the RWQCB or has felt the effects of a mandate, of the E-zero population projections that limited sewer grant funding, and, thus,



the availability of sewer hookups for home building, for the sake of air quality.

Mr. RYAN. Let me ask you a question. You are the building industry, or a part of the building industry, in the bay area. Has HUD contacted your industry, your association, in specific to respond to the legislation passed by Congress, the Air Quality and Water Quality Control Act?

Mr. KINNEY. We contacted HUD. And, we didn't get much help. Right now, currently being reviewed by the California Office of Planning and Research, is ABAG's answer to the housing problem, which we don't feel is much of an answer. They call it the regional housing plan. It has a lot of statements about needs and about data collected. But, it doesn't have any assurances that the housing is going to be built.

As you are aware, there is no vested right to build a house in the State of California today, or in most of the parts of the country. If you own a piece of land and you want to build a house, you must get permission to build that house. You don't have the right to go ahead and build it.

Mr. RYAN. Let me ask you. As an uneducated observer, when the average price of a house goes from \$35,000, \$40,000 a year in 5 years, to almost \$100,000 a year, certainly, one of the things it indicates is there isn't a sufficient housing supply. There's an enormous demand for more housing. Well, now, if we couple the demand for more housing with the fact that we are trying to cut down on the number of auto emissions, that is, the amount of transportation by private vehicles, doesn't it make sense, then, for the Department of Transportation and HUD to get into the act, and begin trying to encourage the growth and development of housing in the central city, where the jobs are, so you don't have to travel?

Mr. KINNEY. That would hold true if people wanted to live in the central city.

Mr. RYAN. Well, but they don't want to live there because the housing is rotten.

Mr. KINNEY. That's true.

Mr. RYAN. Well, what if we had housing that was attractive?

As we have not, for instance, here in San Francisco, out there on North Beach. I mean, there's no vacancy factor at North Beach. There's no vacancy factor along that North Beach area where they've had all that new construction.

Mr. KINNEY. Since 30 percent of the automobile travel is for the job-related commute, and 70 percent is for shopping and personal trips, the fact that I would live in San Francisco only takes care of 30 percent of the air pollution problem caused by the automobile.

Mr. RYAN. Well, don't you live where you shop?

Mr. KINNEY. I try to live where I work. I had to pick a spot in between, because my wife and I are both professionals. And, it happens to be Oakland.

Mr. RYAN. Hardly typical.

Mr. KINNEY. Well, I don't know if it's hardly typical. Most of my friends are also young professionals.

Mr. RYAN. Well, I'm speaking of your building industry, as such.

When you have a number of persons in a particular mass, the residential as well as the occupational demand becomes present. If you began to build the kinds of areas that there are now in a few places in San Francisco, and a few places around the bay area, where people can live and shop, such as the Embarcadero Center where the old produce market used to be on the Embarcadero. A good example. That's a completely self-sustaining area. Before it was slums. If we had that kind of policy that encouraged the building industry to build hundreds of thousands of new units in the bay area alone, wouldn't that tend to resolve, with the same degree of effectiveness, the problems that are being addressed by EPA? Where they fine, and shove, and bully, and push, and threaten the existing cities with the loss of local control, with loss of autonomy, with the loss of funds, wouldn't that do the same thing?

Mr. KINNEY. I don't believe that the answer to the housing problem in the bay area—at least, from the consumer's point of view, which are the people we are trying to satisfy—is to stack the houses on top of each other, by buying an expensive piece of land in downtown, and redoing the utilities, to accommodate it. I don't think that's the answer.

Mr. RYAN. Well, what does your industry say about it?

Mr. KINNEY. Our industry is divided. There are some people in our industry that are quite willing to build the townhomes and condominiums in the inner-city area. They are willing to provide the necessary security, so it's safe. They are willing to redo the utilities, which means take out the old cast iron sewer pipes.

Mr. RYAN. But, your industry has no position on it, as a whole?

Mr. KINNEY. As a whole, we have no position to endorse, or not to endorse. We did make a statement, from our chairman of the board, quite a while back, that we felt that single-purpose planning was not appropriate.

And single-purpose planning, at that time, focused on the oxidant standard, the 0.08 part per million, per hour. I have read the January 1978 EPA Advisory Panel's report, and all the studies they quote. These studies get down to 0.15. The actual, easily measurable effects start about 0.25 and 0.20 part per million, per hour, of oxidant. I believe that 0.15 standard is sufficient. But that's something for EPA to address. There needs to be some corrections in that area, or some guidance by Congress to EPA in that area, because, EPA does not seem to be taking into account the social and economic disruption that the consumer, the homeowner, in the California area is facing. They are not taking into account his desires.

Mr. RYAN. It seems to me that when we know for certain, with absolute certainty, that we live now with the expectation of the disappearance of oil as a natural resource, that we don't take any more consideration of other alternatives than simply snuffing out local control in an effort to make our cities over.

Mr. KINNEY. If I may, one of the responses to infilling—which seems to be the recent cry by both HUD and EPA as the solution to all evil—is that infilling can work both ways.

If you want to look at it from another view, BART—Bay Area Rapid Transit—was the worst thing to happen to places like Walnut Creek and Concord, which could have become independent cities on



their own right. Essentially, it allowed San Francisco to be the hub and the center of all activity, which may not be a wise thing to foster.

If you go and ignore places like Walnut Creek, Concord, and small towns that want to become a well-balanced community, and not let them have those heavy industries that the plan now admits cannot come into the bay area, I think you may exacerbate the problem.

Mr. RYAN. Thank you, very much, Mr. Kinney.

Mr. KINNEY. Thank you, sir.

[Mr. Kinney's prepared statement follows:]

PREPARED STATEMENT OF CHARLES KINNEY, GENERAL COUNSEL FOR ASSOCIATED BUILDING INDUSTRY OF NORTHERN CALIFORNIA

Dear Chairman Ryan and Members: I am Charles Kinney, General Counsel for the Associated Building Industry of Northern California. The Associated Building Industry is a trade association representing the residential and light commercial construction industries. For the past two years, I have served as an alternate on the Environmental Management Plan Task Force, which was a forty-six member task force representing government, private industry, and public interest groups. I was also a member of the Technical Advisory Committee for the Air Quality Maintenance Plan. In addition to being an attorney, I have a degree in mechanical engineering.

STANDARDS

The Environmental Management Plan is based in part on the Federal and state air quality standards. Almost everyone has expressed dissatisfaction with the present federal primary ambient air quality standard for photochemical oxidant. Until the naturally occurring background level can be ascertained, and the error in the measuring instruments calculated, it is difficult to justify the present "safety factor" in this oxidant standard.

It was recently reported by a representative of the Bay Area Pollution Control District that the oxidant levels seem to follow the previous year's rainfall pattern. Although only preliminary results of the BAAPCD's report are available, it seems that seventy percent of the oxidant concentrations in Redwood City could be due to hydrocarbons produced by green plants. The report also indicated that sixty percent of the Livermore Valley oxidant problem could be caused by plants in the Oakland and Hayward hills. As you know, byproducts of photosynthesis include complex hydrocarbons. These hydrocarbons ultimately create photochemical oxidant. (Ref. BAAPCD Sandburg Report of June 1978; Environmental Protection Agency, Altschuler letter of April 6, 1978)

The margin of error in the measuring instruments has been guesstimated at  $\pm 0.02$  parts per million per hour (ppm/hr) since two meters in close proximity registered this difference when measuring oxidant concentrations. (BAAPCD Lou Robinson)

According to the January 1978 EPA Advisory Panel's report concerning the oxidant standard, the lowest oxidant concentration exposure that resulted in some effects among sensitive persons and asthmatics was 0.15 ppm/hr. The proposed standard of 0.10 ppm/hr may be as unrealistic as the present standard of 0.08 ppm/hr, given the natural oxidant-producing processes and the error in the measuring instruments.

ECONOMY

The Environmental Management Plan process was to insure balancing between economic, social, and environmental concerns. An equitable balancing did not occur. The margin of "safety" of the oxidant standard is causing a general economic slowdown to the Bay Area, since new industries, especially heavy industry cannot satisfy the BAAPCD New Source Review regulation requirements to qualify to do business in the Bay Area. The EMP contains an earlier version of the BAAPCD's New Source Review rule. The NSR offset policies are essentially useless because the offsets are either used up or being coveted by existing industry. A classic example is the inability of Wickland Oil Company to obtain permission for an oil terminal facility. Wickland Oil cannot obtain written evidence of offsets to qualify for authority to construct, yet by constructing, it would not purchase its supplies from other dealers. Other dealers under-

standably won't guarantee that they will not sell their oil to others if Wickland Oil doesn't need it. Since oil demand is fairly inelastic in the Bay Area, these other dealers won't be able to sell that oil; so the "offset" happens in practice, but is not confirmed on paper. Thus, no permit for Wickland Oil. (BAAPCD Report of March 31, 1978)

#### LAND USE

The Environmental Management Plan wisely deleted the so-called land use controls. These controls would have increased densities in the intercities in order to shorten the daily home-job commute, in an effort to reduce the oxidant precursors (i.e. nitrogen oxides and hydrocarbons). It should be noted that the automobile commute only caused thirty percent of this air pollution problem, whereas shopping and personal trips contributed to approximately seventy percent of the air pollution problem. (Air Quality Maintenance Plan Technical Advisory Committee Memo No. 23, Nov. 1977). Since the air modeling studies showed only minor air quality improvements due to land use controls, it was argued that densification did not necessarily mean cleaner air (ABAG Issue Paper No. 2, May 1977). Controlling residential and commercial uses of land in an effort to reduce air pollution would create no direct benefit in reduced air pollution, but did cause substantial social and economic disruptions (AQMP TAC Memo "Disclaimed" No. 15, Sept. 1977; AQMP TAC Memo No. 15/Assessment Tech Memo No. 4, Jan. 1978).

After these substantial technical arguments were given, it was suggested that including land use controls could result in federal intervention in a traditionally local issue. For this reason, the land use control measures were deleted.

#### EMP CONTINUING PLANNING PROCESS

The Environmental Management Plan calls for various programs in areas of Water Quality, Water Supply, Solid Waste, and Air Quality. Some of these programs require annual reports, monitoring, coordination activities, studies, and public education programs. The Continuing Planning Process must be diligently observed to assure that these programs are effectively and efficiently administered.

In closing, it is interesting to note that many supposedly important programs in the EMP may have to be deleted due to funding limitations caused by the recent Jarvis-Gann Initiative. Many of these programs were either not mandated or simply not necessary.

Mr. RYAN. Mr. Carl Pope, Sierra Club.  
[Witness sworn.]

#### STATEMENT OF CARL POPE, SIERRA CLUB

Mr. POPE. Mr. Chairman, members of the committee staff, I regret to say there was a communication foulup on our part. I do not have prepared testimony for you. But, will submit that for you, for the record, and you may proceed with your questions.

Mr. RYAN. Thank you.

Do you have any opening statement?

Mr. POPE. Yes. I'd be glad to make a statement.

On behalf of the Sierra Club, which is a national environmental organization, with 180,000 members, headquartered here in California, we would like to say we think it's extremely appropriate that this subcommittee of the House Committee on Government Operations is looking into the environmental management plan.

Our feeling, having followed this process closely, is that the real issues which this plan raises are, indeed, issues of governmental relations and governmental organization rather than conventional questions of pollution control.

In general, we were supportive of the plan as it emerged. But, with regard to the critical air quality maintenance plan, we believe that the failure of that plan to come to grips with the land use issues, which, for



a wide variety of reasons of which air pollution is only one—energy conservation is another—we believe to be critical to the future of the bay area.

The final incapacity of the processes that were established to make a regional commitment to mass transit, which is clearly called for by the act, in this area, and which is beneficial to our citizens, vital to the region's economy, illustrate that we still have, at the local level, some basic dilemmas in trying to do comprehensive planning.

Now, both in the statement by Mr. Peevey, and in the statement we've just heard with regard to the land use issue, the comment was made that it was inappropriate to address these kinds of land use questions in the context of a single-purpose, or several-purpose, planning process such as this was.

The Sierra Club, basically, would concur with the judgment that it would be better to address these kinds of land use planning questions through a comprehensive regional land use planning process.

We have for a number of years struggled, both at the Federal level, at the local level, and here in the bay area, to obtain a regional land use planning process that would be comprehensive. And, we have consistently come up against opposition from the industrial sector, from the building sector, and from the turf problems involving various local entities jealous of their prerogatives.

I think that some of the problems we've had in the bay area developing this plan illustrate again that many, many of the problems that we face in society are being—solutions to those problems are being thwarted by the very slow speed at which we are restructuring our complicated, overlapping, and, in many ways, outmoded structures of local government.

In the entire discussion about the land use elements of the plan, there was an enormous amount of discussion about who was going to do it. And, relatively speaking, much less discussion of what ought to be done.

Now, I feel that what the debate about what the land use future of the bay area ought to look like, the debate about city-centered growth, compact growth, as opposed to the more diffuse model, was drawn only tangentially into this entire process. Because, we were continually dragged off into discussions about: Well, if we do this, it would involve the Feds in the act; or, this disrupts the existing structure of local government; or we shouldn't do it in the context of single-purpose planning agency.

Well, I don't think at the moment we have any other such agency. I think that's a very serious problem. I think it's a problem that has resulted in a good, but less than optimal, pollution control plan for the bay area.

And, I think it's a problem that is going to handicap us, as we try to deal with other social problems. I think the Congressman's remarks about the energy problem, and running out of oil, were very apropos.

We don't, right now, have any mechanisms here in the bay area that enable us to shape future land use patterns in a way that will take into account the likely energy future.

And those kinds of questions are, really, the central questions, which are posed by this plan. Now, beyond that, as I've said, we feel that in one area, transportation—specifically, mass transit—the plan as

developed does not comply with the mandate of the Clean Air Act. The act says that the extension from 1982 until 1987 for treatment of oxidant and carbon monoxide standard is to be earned. It is to be earned by areas adopting all reasonably available measures.

And, specifically listed in the conference report, as a reasonably available measure, is an increase in mass transit.

Now, this plan, as it was developed by the staff of ABAG, contained such a commitment to the 35-percent increase in regional transit ridership, funded by a combination of available revenues, increased bridge and highway tolls, and a regional parking tax.

As the plan finally emerged and was sent to the air resources board, the commitment is totally absent. And, as a result of the passage of proposition 13, and resultant increases in transit fares, we are faced here in the bay area with a very substantial diminution, rather than an increase in the ability of our mass transit services to meet the needs of our people.

So, we feel, in this one particular area, the plan clearly fails to meet the mandate of the act, and we would hope that State air resources board and the EPA would remedy this defect.

We would hope that down the road we would come up with, here in the bay area—with help, I would hope, from the State of California and the Federal Government—with some mechanisms which will enable us to address this land use issue.

Because, we do think they are important issues for pollution control reasons, and for other reasons.

But, on the whole, we are supportive of the remaining elements of the plan. And, we think that—especially in the areas of water pollution and solid waste—it is a pioneering effort that should be encouraged.

Mr. RYAN. You speak for the one environmental group in the bay area, in California, and perhaps the Nation, that has been more fulsomely praised and more roundly damned than any other group, which indicates that you certainly have a point of view of your own.

I've been a little disappointed that the Sierra Club has spent so much time on espousing those causes, many of which I support, but which are, essentially, negative. In the sense of: "Don't do this; don't do that; let's have less of this; and less of that." Instead of providing more positive alternatives. I go back to questions I asked earlier of the building industry.

Would there not be clearer air, more open space, better water conditions, if we just use the land we already occupy more effectively, use it more carefully? I go back to San Francisco—when tomorrow afternoon we will probably still be in session here—you would be able to fire a cannon down Montgomery Street and not hit anybody. It's a weekend. Now, why is that space empty, when it no longer has value from an environmental point of view as far as wildlife is concerned, as far as water is concerned, as far as air is concerned? Why don't we use that space better than we do? Why don't we begin to clear land of substandard housing, leave it open? In effect, use the land more carefully, and do it in a positive sense?

I'm terribly impressed by what's happened in the last 15 years in the produce market area in San Francisco, the old produce market, down there on the Embarcadero. Taking an area that was blighted, if there ever was one, and making it into an area which is one of the



most delightful places to live—if you want to live in an urban environment.

And increasingly, we begin to complain about the choked air, and the polluted water, and all of the rest of it, in the suburban areas. If that's our future, especially, when we can look forward to the time when there are no such things as gasoline-powered automobiles.

If we know that's going to come to an end, whatever it's cost, it will certainly take care of the problems of air pollution—when there are no more automobiles to any substantive extent.

What can the Sierra Club do now to offer positive alternatives instead of an environmental management plan that says: "Don't do this anymore; clean up more here." It's, essentially, a mopping up exercise. We want to spend more money for waste-management plants, for sewage plants to clean up the water, for restrictions to make it less easy to use the automobile in given places.

Has the Sierra Club been involved in any kind of discussion, or examination, or planning in that direction; or does it confine itself to a more narrow charter of the past?

Mr. POPE. Well, the club's charter, over the past years, has been broadening very substantially. The major new thrust which we have undertaken in the last 12 months—and, I think, 12 months ago your question would have made me squirm much more than it does today—has been in the direction of positive programs in the urban areas.

I think the point that you made that, if we are going to try to preserve open space, we have to make the spaces we have already used attractive and liveable, and we have to use them better, is a very obvious one. And, I can't defend how long it took us to do anything about it. But, in past years we have embarked on a fairly major effort to develop our expertise in the area of urban public works. We've testified frequently with regard to the public works programs before committees of the Congress.

We are hosting next February, probably in Philadelphia, a major national conference, in conjunction with the National Urban League, to explore ways in which we can work the National Urban League to develop urban programs.

One of our top four legislative priorities this year is going to be help pass some of the elements of President Carter's urban plan, which we believe—although, they are not, necessarily, the entire answer—are important first steps towards revitalizing our urban areas.

I think, increasingly the club is recognizing that it has a responsibility to educate its own membership. There has been a problem in San Francisco, and some of our other cities, with some of these proposals. Because, the residents of neighborhoods, which are already there, have resisted the higher densities, which might enable us to make better use of some of these areas.

And, we recognize now that we have a responsibility to educate our constituency to the fact that higher density is the flip side of open space. The two are on a seesaw, and you can't have them both be up.

In addition, I feel that the crucial things which should now be restored through this environmental management plan are not the regulatory elements. I mean, I think there may be some problems there. But, that is not what I see as being absolutely crucial to restore.

It seems to me that what it is crucial to restore is the mass transit elements which were taken out. Because, I think that one of the things that makes the bay area so livable—I speak as someone who grew up in Washington, D.C., and lived there most of my life—is that by contract—

Mr. RYAN. You have improved your life.

Mr. POPE. Yes. I have improved my life. And, one of the reasons I've improved my life is that we have, relatively speaking, very good transit, by comparison with what I grew up with.

And, I now see that threatened. I think we need to renew that commitment. We need to develop some transit approaches which will work better in some of our less centralized cities—cities like San Jose. I think that's going to take a lot of creativity; and, it's going to take some money. And, that's an unpopular thing to say. But it is going to take some money.

We've put a lot of money into highways. And, I think, we have to balance that now by putting money into transit.

I would hope that over the next 2 or 3 years, as the club does more and more in this area, that we might begin to develop a credibility, which, frankly, we've lacked. That credibility has made it difficult for us to do things. Because we couldn't find partners to work with sometimes. I tried 2 years ago to find some building trades unions in San Francisco, to sit down with and work out a program we could push in Sacramento in low-income housing rehabilitation. I frankly, don't think they thought I was serious. I couldn't find anybody to work with. But I hope that's changing.

I think that we've got to do a lot of these things that make our cities livable and to keep people there. There's no question about it.

I would suggest that you might obtain for the record of this hearing, Congressman, an article which a Renee DeBose wrote in the last month's issue of the EPA Journal. Which is, basically, an article on how to make our cities livable. And, how very modest little steps—using our waterfronts better—he points out how badly we use the waterfronts in American cities. It can really make a difference. And, you might want to obtain that for the hearing record.

Mr. RYAN. Thank you. I appreciate your appearance here, Mr. Pope. And, I hope those ambitions are realized.

The next witness we have is Ms. Katherine Dunlap, California Council for Environmental and Economic Balance.

Mr. PEEVEY. I realize this is subject to humor. I am not Katherine Dunlap.

Mr. RYAN. One would surmise that.

Mr. PEEVEY. Mr. Chairman, I am the president of the same organization. Mrs. Dunlap, who resides in southern California could not be here.

Mr. RYAN. Be seated and give your name.

[Witness sworn.]

#### STATEMENT OF MICHAEL PEEVEY, PRESIDENT, CALIFORNIA COUNCIL FOR ENVIRONMENTAL AND ECONOMIC BALANCE

Mr. PEEVEY. Mr. Chairman and members of the committee, my name is Michael Peevey. I am the president of the California Council for



Environmental and Economic Balance, of which—as I already indicated—Katherine Dunlap is the chairman. We divide our activities in northern and southern California. I am a resident of this area. We are a statewide organization of organized labor, the business community, and many other people who believe in environmental improvement, but believe that it has to go hand in hand with a healthy economy.

I know it has been a long day for you, and you've been through this lengthy testimony on the environmental management plan and the AQMP, and so forth. Let me just say, I have a prepared statement. I believe you have it. We provided 50 copies to you.

We, as an organization, along with many other organizations, were intimately involved in this process ever since the draft EMP was prepared and released to the public late in 1977.

We were, initially, very critical of the ABAG staff proposals regarding land-use controls, and the requirement that best available control technology be applied to existing sources, as well as new sources.

I am happy to say that due to the efforts of many, many people, I think that we have a plan now, as it was adopted by the general assembly on June 10; and shipped off to Sacramento for the beginning of the review process there; and, then, ultimately, to EPA, that is generally a good document and supportable by very many people.

There was an interesting example of that in early May, when we sat together—my organization, the Sierra Club, the League of Women Voters, the Bay Area Council, the Coalition of Labor and Business, Supervisor Feinstein who had been chairman of the environmental management task force of ABAG, the president of ABAG, and many others at a joint press conference announcing support for the plan as it had been revised.

Since that time, I understand that one or two of those organizations have had second thoughts as to their endorsement. But, I think the general thrust of that press conference, and attitudes expressed there, were the appropriate ones. We have not backed off one iota from that commitment.

In terms of my statement, on pages 7 through 9, there are five specific points that I think we learned from this process that for this committee's consideration in the future, I would suggest perhaps some thought and attention be given.

First: There was really a lack of adequate legal and technical guidance for and to ABAG in making air quality judgments in the plan. And, I think, that that lack of guidance by EPA, by the State, in part, undermined public confidence in the process, as well as it did private confidence.

The most important lack, in our view, was the failure of EPA to draw up and provide supporting regulations based on the 1977 amendments to the act.

There were other key problem areas, however. The advice handed down by agencies higher up than ABAG were, oftentimes, insufficient, or contradictory, or incomplete. I suppose, the best example of this is the whole debate over the land-use control element, which involved EPA, the air resources board, and ABAG in the statement and the issuance of inconsistent opinions regarding the controls, their necessity, and their legal requirements.

Second: The standard for review by local government was insufficiently detailed. The result was inconsistent review patterns across the bay area, among the 80-plus cities, and the 7—originally 8, and later 7—counties within the ABAG jurisdiction.

Which meant that the public opportunity for understanding and comment on the plan differed widely from area to area. The net result was that some local areas had a great deal of input into the plan; others had almost none.

I would add that I think it, in part, was the press' responsibility. The inability of some of the major metropolitan presses in the bay area to get over and even explain to its readership—particularly northern California's biggest daily—what this whole plan was about, increased public uncertainty and concern.

Third: A critical deficiency was the inadequate lack of time for review of the important documents by both public and private interest groups. Often documents would become available from ABAG only the day before, or the day of a given discussion of a specific topic. In order to insure the kind of fundamental fairness applied in due process, it would seem as though Federal law ought to spell out to some extent in the regulation, the time deadlines for the availability of this type of a review process.

Fourth: There was a critical lack of understanding of the standards to be attained and maintained to satisfy the requirements of the act—the Clean Air Act, this is. And, my comments are only restricted to that.

The failure of any agency to provide a concise and understandable guidance document at the outset of the process was a deficiency that could not be remedied, even by groups with high degrees of technical understanding of the process.

I think it's fair to say that few people, even today, really understand what the standards are for attainment.

And, five: Aside from this basic confusion over standards, it may very well be that the objective requirements of the act may be overly stringent, although the recent modification of the oxidant standard from 0.08 to 0.10 part, per million, is a positive step, providing some leeway for stationary sources. It is questionable in many areas whether attainment in a timely fashion is possible.

The standards ought to be reexamined fully with an eye toward achieving a reasonable balance between competing needs for clean air, economic stability, and progress.

This also implies finding the best assignment of responsibility at the national level, between large national sources of pollutants, such as the automobile industry, and local authorities, in the meeting of legitimate and necessary public health needs in the air quality area.

Mr. Chairman, those are the five particular points that I'd like to make here.

I'll be happy to answer any questions.

Mr. RYAN. I'll ask you the same questions I asked others.

In spite of what you say there, which is a well balanced kind of document that you present, you say you are satisfied with the document, but do you think it will be accepted by the Feds?

Mr. PEEVEY. It's conjecture.

Mr. RYAN. Sure.



Mr. PEEVEY. It's the intent—to be blunt about it—the intent of my organization to do anything that it can to try to insure its adoption by the air resources board, and then ultimately by EPA.

Mr. RYAN. Why?

Mr. PEEVEY. Because, we think it is a good plan, given the strictures and the requirements of the Clean Air Act. And, there are problems, perhaps, with that act regarding the standards.

But, be that as it may, it is the law of the land at the moment and it is necessary for this area to come up with a plan that can go ahead, so that come mid-next year we do not have any slowdowns, or stoppages, or cutoff of Federal funds, or all of the other things that are provided as possibilities in the act for nonattainment areas, without a State implementation plan that's approved by the Environmental Protection Agency.

Mr. RYAN. Now, very respectfully—I've been here since 10 o'clock this morning, Mr. Cunningham, and the staff. And, I've heard over, and over, and over again that this is a plan that ought to be adopted. But, the amount of enthusiasm really underwhelms me. Well, it's here, and it's been adopted. So, I guess, this is what we have to go with.

Do you like it for itself, alone? Or, do you like it because it's the least alternative?

One of the concerns I have is that there is a kind of coercion, or the appearance of coercion. "Either you take this, if you don't like this, wait and see what we got for you backstage, we haven't even showed you yet." Which comes down to some kind of imaginative construction like: "We'll, get a Federal court order for a city to comply with a particular kind of judgment;" failing that, "they will be fined; and so on, and so on; and so on;" and then no Federal help on top of that; and, suddenly, they are just in worse shape. Is that the reason for your support? Or, are there positive reasons for it?

Mr. PEEVEY. Well, I don't think that there's—we are not children here. And, I don't think there's any doubt in anyone's mind that there has been an element of coercion, implied or expressed. Expressed in a couple of particular cases from the State air resources board; implied in many other cases. Implied—

Mr. RYAN. You say, in specific, from the air resources board?

Mr. PEEVEY. Specifically, what you already alluded to—I think, you have in your files letters from various members of the air resources board—the vice chairman to Dianne Feinstein, back in February. And, then, a letter from the head of the planning division, Mr. Lockett, later in this year. There is a veiled threat in the latter case; in the former case, a rather clean threat, it seems to me, that the State would change this plan, if you don't do X. And X is land-use controls.

Some people love land-use controls. They'll seek them out anywhere.

But, beyond the coercive element, we've all participated in the process and we feel a certain sense of protection toward the plan.

The fact is, Chairman Ryan, that this plan was developed—although not everybody was enthusiastic about all aspects of it—by a fairly broad range of interests. I have to applaud ABAG for the creation of the environmental management task force 2 years ago and the broad range of interest that was represented there: Labor, business, senior citizens, the minority community, the housing groups, environmentalists, and so forth, as well as city and county officials.

And, under the leadership of Supervisor Feinstein, they worked long and hard. And, I think, all of us take a certain amount of pride—maybe, not great pride, but, at least, some pride—in the shaping of that document. And, we think it's a workable document.

From my own perspective, and I can't speak for all others—I am sure there are many who would be most happy without any plan whatsoever. From our perspective, as an organization, we believe in making environmental improvements. We believe in environmental progress. We have been staunch supporters of a whole series of environmental issues in this State—most recently, propositions 2 and 3 in the June ballot.

We believe, in the case of the Clean Air Act last year—and we had discussions with Congressman Paul Rogers in this regard—too much of the burden for the attainment of air quality in this country was placed on sources other than the automobile industry. And, we were up front about saying that. We've supported the California waiver on standards on auto-caused pollution. From our perspective I think that there are significant elements in this plan that are beneficial and desirable for the area.

Mr. RYAN. Thank you very much, Mr. Peevey. It grows late. I could ask a few questions. But, I am anxious to get the rest of these witnesses heard.

If you'll be seated, and give the reporter your full name, and identify your organization.

[Witness sworn.]

#### **STATEMENT OF JEFFREY D. GABE, STAFF SCIENTIST, CITIZENS FOR A BETTER ENVIRONMENT**

Mr. GABE. We'd like to thank Chairman Ryan for the opportunity to testify before this committee.

The U.S. Environmental Protection Agency provided the Association of Bay Area Governments (ABAG) with \$4.3 million to develop an environmental management plan to insure that the bay area would meet the 1982 deadline for compliance with Federal air standards to protect human health. It is important to remember that the 1982 deadline already represents a 5-year extension from the Clean Air Act's original deadlines of 1977.

In addition to coming up with an air quality maintenance plan, ABAG was directed to address problems of water pollution, and resources, and solid waste.

In January 1978, ABAG's environmental management plan was made available for public comment. It has been prepared by ABAG's staff in conjunction with the staffs of several Federal and State agencies.

The plan, in its original form, was one that Citizens for a Better Environment and other bay area organizations strongly supported.

We did file some formal comments requesting some amendments that we thought would strengthen the plan, because it had neglected significant issues in the areas of energy policy, sulfur dioxide, pre-treatment of industrial toxic wastes, and the problem of hazardous wastes in general.

Our proposed amendments were submitted to ABAG on February 8,



and are attached here as exhibit 1 to this testimony—CBE-7831: ABAG environmental management plan, February 8, 1978.

Together with the Natural Resources Defense Council, the League of Women Voters, the Sierra Club, the Bay Area Lung Association, and People for Open Space, we also filed some additional comments and proposed amendments to the air plan. We attended every ABAG environmental management task force meeting that was held, and also attended additional nonofficial meetings.

Thus, we gave a lot of time and effort to participate in the process of review of the original plan.

In return, we got nothing. ABAG never replied to our proposed amendments, never told us why they had not been incorporated into the plan, and generally gave us the fast shuffle.

Instead, the ABAG officials carved into the special interest groups, such as the Bay Area Council, and the Council for Environmental and Economic Balance, whose scare tactics about loss of jobs and economic disaster in the bay area carried the day. As exhibit 2, we reproduce a typical Bay Area Council propaganda flier.

As it became increasingly obvious that the environmental community in the bay area was being drowned out by the special interest group, we drafted a memorandum to the executive board of ABAG just prior to their vote on April 29. In that memorandum, which is attached hereto as exhibit 3, we warned that unless ABAG restored the air quality maintenance plan sections that had been removed from the original plan, there could be Federal sanctions that would involve penalties to the bay area of up to \$130 million a year. They could also limit the growth of new industries indefinitely.

Our analysis was confirmed in a legal memorandum released by the U.S. Environmental Protection Agency the next day, which stated that legal sanctions could be imposed if the plan were not approved.

The California Air Resources Board also warned the executive board of ABAG, prior to its April 20 vote, that not enough had been done in terms of transportation control planning to qualify the bay area for an additional 5-year extension beyond 1982.

Thus the ABAG plan is shooting for a 1987 compliance date that they may not be legally entitled to.

Yet there was no serious discussion of these issues at the April 20 ABAG executive board meeting, and the air sections of the original plan were deleted and relegated to a continuing planning process.

We believe that these actions by local politicians represent both a failure of nerve and also, in the case of a few persons, an arrogance that "nobody in Washington is going to tell us what to do." Yet by failing to enact a workable air quality maintenance plan, ABAG has insured that such a plan will have to be drafted by the California Air Resources Board, or possibly even the U.S. Environmental Protection Agency, if the ARB fails to come up with an acceptable plan by January 1, 1979.

We found out in late April that ARB plans to go into the closet until after the November election, which means that public participation will be so minimal as to be a charade. We immediately wrote the chairman of the ARB, exhibit 4, pointing out that proper solutions to the bay area's air quality problems must necessarily involve a high degree of public participation at the local level.

The air plan will ultimately affect not only the quality of the air in the bay area, but also the modes of transportation and the degree of industrial growth. It will become a document that will have a major effect on people's lives, and thus deserves the widest possible discussion by members of the public rather than being decided behind closed doors and then given short shrift in a few hearings only weeks before submission to the Federal EPS.

Unfortunately, the letter we received back from the ARB answered none of our specific questions, made only the vaguest of promises, and generally was a paradigm example of bureaucratic lateral arabesquing.

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Thus, what started out as a unique, and brilliantly conceived, attempt at local planning, and resulted in a very good original plan, has fallen prey to a combination of cowardice, avarice, and arrogance on the part of local officials.

We believe in local planning, because we think local agencies are best suited to determine the needs of all the interest groups in their area. But, the ABAG experience leaves us with some question as to whether, in practice, local politicians are willing to stand up to well-funded special interest groups.

We do not believe that the air quality maintenance plan that has emerged from ABAG will result in compliance with the national air quality standards.

The plan depends heavily on the Livermore regional air quality model [Liraq], in order to gain estimates of future air quality and the reductions in pollutant emissions that would be needed to meet Federal air quality standards. Liraq is reputedly the most sophisticated approach to air modeling yet developed. Nevertheless, when its inherent inaccuracies are coupled with those of the emission estimates that serve as a portion of its data base, it can only give a best guess as to what reductions will be needed to achieve Federal clean air standards. Officials at the bay area pollution control district state that the Liraq estimates for allowable emissions in 1985 contain an uncertainty of plus or minus 50 percent.

Despite this massive error band, the figures that ABAG used were the absolute minimum ones. Their planning process assumed that the estimates were indicative of the worst possible case in 1985, while ignoring that they actually represented the best possible case, and that pollutant concentrations in 1985 will be much higher than they are predicting.

They allow for error only in one direction—in the direction that allows them to relax the requirements for emission reduction. They never directly addressed the very real question of what might have to be done if we find out that currently planned efforts are not sufficient. Instead, they relegated such questions to the vagaries of a continuing planning process.

Their attitude is that we should delay such considerations until we are absolutely certain that they are necessary.



CBE believes that by that time it will be too late.

One additional example: ABAG assumed that population growth in the bay area would be accompanied by an increase in the number of automobiles at the current rate of slightly more than 2 cars per family. Such an assumption betrays ABAG's lack of commitment to developing an adequate mass transit system in the bay area, that would reduce the need for automobiles for commuting. The present transportation plans are no plans at all—they are empty promises with no provisions for implementation.

In light of the recent fare increases announced by the San Francisco Muni and AC Transit, necessitated by proposition 13, ABAG's transportation plans are totally inadequate to deal with the problem of regional transportation and offer no hope for meeting the mandates of the Clean Air Act.

Lest it seem that we are totally opposed to the ABAG environmental management plan, let us assure you that we do support the parts of the plan that address solid wastes, and water pollution. The water pollution sections could have been made stronger, had our amendments been adopted, but we think, generally, that the plan is adequate and we support it.

As to the air quality management plan, however, we see little prospect of an acceptable plan emerging. This means that on July 1, 1979, we will file suit in Federal court against Douglas Costle, Paul DeFalco, Tom Quinn, and their respective agencies, for failure to comply with the Clean Air Act Amendments of 1977.

Once again, it will have to be the Federal judiciary that is the branch of Government that does what the others have failed to do.

Our bottom line is that we do not think that local decisionmakers should turn their backs on their own planners, yet that is precisely what the ABAG experience has turned out to be.

That ends the end of my written statement. We'd appreciate a copy of the transcript for editing before publication.

And I'd be happy to answer any questions.

Mr. RYAN. The transcript of this hearing?

Mr. GABE. The transcript of our comments.

Mr. CORNISH. Yes. That's part of the rule.

Mr. RYAN. Yes. We usually do that anyway.

Mr. GABE. OK.

Mr. RYAN. Well, I think your statement is extremely complete, and very definitive. I haven't had a chance to look at the attachments thereto. But we will. The staff and I will both examine them. And, just—I think in view of the time, we will thank you for your very succinct and forthright comment. It was very well done.

Mr. GABE. Thank you.

Mr. RYAN. One question from Mr. Cunningham.

Mr. CUNNINGHAM. We've had planners; we've had supervisors; what's a staff scientist?

Mr. GABE. Would you like to know my training? Is that the—

Mr. CUNNINGHAM. Yes. I'd just as soon know what your credentials are. It proves, I think, extra credibility.

Mr. GABE. I have a bachelor of science degree from the University of Minnesota in biology, a masters degree in biology from Stanford University.

Mr. CUNNINGHAM. But, you're very critical—very——

Mr. GABE. It's a hard report.

Mr. CUNNINGHAM. I'm just wondering why it's that hard. It looks—while the plan doesn't look perfect, it does look like a lot of people have tried very hard to resolve some problems.

Mr. GABE. Well, I would agree that a lot of people have tried very hard. The problems that they resolved are different, depending upon your point of view. As I stated, we felt that the plan that came out of the planning process, the original draft plan, was a very adequate and complete plan. However, through the course of it's approval, it was totally wiped out, we feel, in the area of air quality. And——

Mr. CUNNINGHAM. But you don't feel that it still complies with the intent of the law?

Mr. GABE. I don't think that it's going to meet the emission reductions needed to allow for acceptable levels of air quality in this area, as required by the Clean Air Act of 1977.

Mr. CUNNINGHAM. Do I gather that you are not content to wait for that determination, but rather to force judicial ruling on it?

Mr. GABE. Well, the point in time when we filed our suit, will be after the EPA's decision.

Mr. CUNNINGHAM. Well, if EPA——

Mr. GABE. And, if the EPA decides that it is not an acceptable plan, then they concur with our estimation, and there won't be a suit.

Mr. CUNNINGHAM. But, if they do concur that it is an acceptable plan, then you are going to file suit?

Mr. GABE. Yes, we will.

Mr. CUNNINGHAM. Well, don't you feel that that kind of breaks down the legislative process? Why would you not be content to accept an authorized finding from an agency charged with implementing the law? Why would you feel it necessary to go to court?

Mr. GABE. Well, if their opinion differs from ours, that is certainly our recourse. And we feel that our opinion is based on the observation of the process as it has existed, and the assumptions that were made by the planners and the elected officials during its acceptance. We feel that the plan will not allow the area to meet Federal air quality standards. And, if so, it is clearly an illegal plan.

Mr. CUNNINGHAM. Do you feel that your suit is constructive to the public's best interest?

Mr. GABE. I think the public's best interest is clean air in this area. And if there is not an acceptable plan, this area will not have clean air.

Mr. CUNNINGHAM. You don't feel that the elected representatives of the people, along with the delegated representatives through existing agencies, are adequate to make that determination?

Mr. GABE. Well, as I would like to reiterate, what we've seen so far is that the special interest groups representing labor and business have had their way with ABAG to this point. And, the plan, as it now stands, is not acceptable to meet air quality standards.

I'd just as soon go through the process at this time, and have that determined, and we can look and see what happens. I don't want to be in the position in 1987, of having to say: I told you so.

Mr. RYAN. Thank you, very much, Mr. Gabe.

[Mr. Gabe's prepared statement with attachments, follows:]



PREPARED STATEMENT OF JEFFREY D. GABE, STAFF SCIENTIST, CITIZENS FOR A  
BETTER ENVIRONMENT

The U.S. Environmental Protection Agency [EPA] provided the Association of Bay Area Governments [ABAG] with \$4.3 million to develop an Environmental Management Plan to ensure that the Bay Area would meet the 1982 deadline for compliance with Federal air standards to protect human health. (It is important to remember that the 1982 deadline already represents a 5-year extension from the Clean Air Act's original deadlines of 1977).

In addition to coming up with a Bay Area Air Quality Maintenance Plan, ABAG was directed to address problems of water pollution, water resources, and solid waste.

In January, 1978, ABAG's Environmental Management Plan was made available for public comment. It had been prepared by ABAG staff in conjunction with the staffs of several Federal and State agencies.

The EMP plan in its original form was one that Citizens for a Better Environment and other Bay Area organizations strongly supported.

CBE did file some formal comments requesting some amendments that we thought would strengthen the plan, because it had neglected significant issues in the areas of energy policy, sulfur dioxide, pretreatment of industrial toxic discharges, and the problem of hazardous wastes in general.

Our proposed amendments were submitted to ABAG on February 8th, and are attached to this testimony as Exhibit 1 (See CBE-7831: ABAG Environmental Management Plan, February 8, 1978).

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\*We are grateful to Chairman Leo J. Ryan for his invitation to testify before the Subcommittee.

CBE is a national not-for-profit tax-exempt organization conducting research and litigation in the public interest. Our four principal areas of activities are air pollution, water pollution, toxic substances control, and energy policy.

We are supported by small donations from the public, and currently have over 30,000 members.

Together with the Natural Resources Defense Council, the League of Women Voters, the Sierra Club, the Bay Area Lung Associations, and People For Open Space, we filed some additional comments and proposed amendments on the air plan. We attended every ABAG Environmental Management Task Force meeting that was held, and also attended additional non-official meetings.

Thus, we gave a lot of time and effort to participate in the process of review of the original plan.

In return, we got nothing. ABAG never replied to our proposed amendments, never told us why they had not been incorporated into the plan, and generally gave us the fast shuffle.

Instead, the ABAG officials caved into the special interest groups such as the Bay Area Council and the Council For Environmental and Economic Balance, whose scare tactics about loss of jobs and economic disaster in the Bay Area carried the day. (As Exhibit 2, we reproduce a typical Bay Area Council propaganda flier).

As it became increasingly obvious that the environmental community in the Bay Area was being drowned out by the special interest groups, we drafted a memorandum to the Executive Board of ABAG just prior to their vote on April 20th. In that memorandum, which is attached hereto as Exhibit 3, we warned that unless ABAG restored the Air Quality Maintenance Plan sections that had been removed from the original plan, there could be Federal sanctions that would involve penalties to the Bay Area of up to \$130 million a year. They could also limit the growth of new industries indefinitely.

Our analysis was confirmed in a legal memorandum released by the U.S. Environmental Protection Agency the next day, which stated that legal sanctions could be imposed if the plan were not approved.

The California Air Resources Board also warned the Executive Board of ABAG, prior to its April 20th vote, that not enough had been done in terms of transportation control planning to qualify the Bay Area for an additional 5-year extension beyond 1982.

Thus the ABAG plan is shooting for a 1987 compliance date that they may not be legally entitled to.

Yet there was no serious discussion of these issues at the April 20th ABAG Executive Board Meeting, and the air sections of the original plan were deleted and relegated to a "continuing planning process."



We believe that these actions by local politicians represent both a failure of nerve and also, in the case of a few persons, an arrogance that "nobody in Washington is going to tell us what to do." Yet by failing to enact a workable Bay Area Air Quality Maintenance Plan, ABAG has ensured that such a plan will have to be drafted by the California Air Resources Board, or possibly even the U.S. Environmental Protection Agency if the ARB fails to come up with an acceptable plan by January 1, 1979.

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Their attitude is that we should delay such considerations until we are absolutely certain that they are necessary.

CBE believes that by that time it will be too late.

One additional example: ABAG assumed that population growth in the Bay Area would be accompanied by an increase in the number of automobiles at the current rate of slightly more than two cars per family. Such an assumption betrays ABAG's lack of commitment to developing an adequate mass transit system in the Bay Area that would reduce the need for automobiles for commuting. The present transportation plans are no plans at all -- they are empty promises with no provisions for implementation.

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Lest it seem that we are totally opposed to the ABAG Environmental Management Plan, let us assure you that we do support the parts of the plan that address solid wastes, and water pollution. The water pollutions sections could have been made stronger had our amendments been adopted, but we think generally that the plan is adequate and we support it.



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Once again, it will have to be the Federal judiciary that is the branch of government that does what the others have failed to do.

Our bottom line is that we do not think that local decision-makers should turn their backs on their own planners, yet that is precisely what the ABAG experience has turned out to be.\*

\* As a final exhibit, we are submitting an article on pages 6-8 of the July issue of our monthly newsletter, the CBE Environmental Review; it is entitled "ABAG and Local Control," and addresses the problem of local control of the planning process in more general terms.

**CBE - 7831**

EXHIBIT 1

# a **CBE** Comment

## **ABAG ENVIRONMENTAL MANAGEMENT PLAN**

**February 1978**

citizens  
for  
a  
better  
environment



Comments Filed  
8 February 1978  
on Behalf of  
CITIZENS FOR A BETTER ENVIRONMENT  
by  
DR. WAYNE WILLIAMS  
Staff Scientist  
and  
JAMES S. CANNON  
Research Director  
on the  
ABAG ENVIRONMENTAL MANAGEMENT PLAN

This review of the Association of Bay Area Government's Draft Environmental Management Plan for the San Francisco Bay Area has as its primary purpose helping to make a good document better. Citizens for a Better Environment commends the Environmental Management Task Force for its diligent efforts over the past year and a half and the production of a document of such depth and scope as the 550-page Plan under review today.

CBE takes a constructive view of the Plan, and the suggestions put forward here are designed to aid ABAG in preparing the best possible final proposal. We propose the following 4 amendments in the areas of air and water pollution control and solid waste management.

AMENDMENTS

- 1 - ABAG should endorse the speedy implementation of strict pre-treatment standards for industrial contributors to municipal wastewater systems in order to prevent the discharge of toxic substances into the Bay Area's waterways.
- 2 - ABAG should propose the establishment of a permit program to monitor and regulate the generation as well as the disposal of hazardous solid wastes by Bay Area industries.\*
- 3 - ABAG should discourage the proliferation of highly polluting industries and industrial consumption of high sulfur fuels as part of its strategy to achieve all federal air pollution standards.
- 4 - ABAG should encourage the development and utilization of non-polluting energy resources in the Bay region.

\*By "solid waste," we also mean those liquid hazardous wastes which must be transported to approved chemical waste disposal sites.

Each of the proposed amendments reflects one general observation made by CBE: we believe that the Plan does not pay sufficient attention to the need for tight control over pollution generated from local industry, particularly toxic substance pollution. The Plan frequently acknowledges the need to limit industrial pollution and to reduce toxic substance discharges, but its recommended policies and actions generally adopt a "wait and see" attitude, rather than one which meets the problems straight on. We hope that ABAG will recognize this shortcoming and expand the sections of its Plan relevant to industrial pollution issues.

**AMENDMENT 1: IMPLEMENT STRICT PRE-TREATMENT STANDARDS FOR INDUSTRIES DISCHARGING INTO MUNICIPAL SEWAGE TREATMENT PLANTS**

CBE believes that ABAG should implement this amendment by altering the existing proposed Action 9.3 of the Water Quality Management Plan. As it now reads, Policy 9 intends to "provide facilities needed for industrial treatment and disposal and water quality protection." Action 9.3 proposes to achieve this goal by expanding existing treatment centers providing "new facilities for pre-treatment of industrial wastewaters discharges to municipal sewer systems." But "only that degree of treatment necessary to meet municipalities discharge requirements are (sic) recommended at this time."

Reliance on current municipal discharge requirements as the guide for implementing pre-treatment standards is insufficient and will defeat purpose of Policy 9. The arguments proving this to be true are contained in the Plan itself. Page III-2 states that "there is growing evidence that suggests that some toxic materials are harming aquatic life." A supporting paragraph on page III-23 begins: "There is some evidence suggesting that animal species living in or depending on the bay area are being adversely affected by toxic materials." This sentence is followed by a lengthy and unsettlingly long list of such evidence. Later, ABAG forecasts that if the present Bay Area Water Quality Management Program is instituted, "the most serious problems that will remain will be those that result from the discharges of toxic materials to the Bay." (page III-28) Finally ABAG admits that "removing of additional toxicants can be accomplished more efficiently by selective pre-treatment of industrial wastewaters rather than by increasing levels of treatment at the municipal plant." (page III-30)

Clearly increased control of industrial toxic discharges is a necessary step in protecting our waterways. But ABAG does not recommend this. It writes instead that "removal of toxic substances from waste discharges and surface runoff is often difficult and expensive. In view of this and the lack of comprehensive evidence of harm, the recommended strategy is to reduce the discharge of toxic substances where this can be done easily and relatively inexpensively." (page III-2)



CBE believes that "ease" of removal is an unacceptable criteria for determining the necessary degree of control of toxic substances into our waterways. ABAG should recognize that without requiring strict pre-treatment standards of industrial contributors to municipal wastewater plants, it will never be able to fulfill one of its guiding principles of the Federal Water Pollution Control Act, namely that "the discharge of toxic pollutants in toxic amounts should be prohibited." Although adequate pre-treatment standards do not yet exist, the federal government will be proposing standards soon.

*The Plan should amend Action 9.3 to call for a speedy review of the proposed federal standards when they are issued in early 1978. It should endorse their immediate implementation if they are deemed stricter than existing standards. The "Action" should specifically instruct the staff of the San Francisco Bay Delta Research Program to pay particular attention to toxic substance discharges from industry and to propose pre-treatment standards if it feels that the federal standards are too weak.*

AMENDMENT 2: ESTABLISH A PERMIT PROGRAM TO MONITOR AND  
REGULATE INDUSTRIAL GENERATION OF HAZARDOUS  
SOLID WASTES

Policy 15 of the Solid Waste Management Plan states that "Regulations should ensure safe and proper handling of hazardous wastes." ABAG then lists seven "Actions" designed to implement this policy. All of the "Actions," however, monitor or regulate the activities of the industry which disposes of hazardous wastes, while none seek to control the industries which generate them.

ABAG discloses on page V-13 that "A hindrance to suggesting solutions to the problems (of hazardous waste disposal) is lack of information about the magnitude of the problem . . . (since) records account for only those hazardous wastes that are legally transported and disposed of. The total amounts generated are currently unknown." Later it acknowledges that "without accurate data about the quantities and types of wastes being generated, it would be very difficult to develop a more comprehensive or long range management system." (page V-31) Instead of making the obvious connection and calling for the institution of a permit system by which to regulate industries which generate hazardous substances as a necessary step toward a long range, comprehensive solid waste management, ABAG retreats. It writes, "this option will have to be considered in the continuing planning process as additional information will become available through state and federal funding." (V-31)

CBE does not believe that the Bay Area can afford to make the regulation of hazardous wastes, including some of the most poisonous substances ever created, await future funding from outside sources.

*CBE proposes that ABAG add another "Action" under Policy 15, creating a program to catalogue all hazardous wastes generated by industry according to the type, amount, and location of origin. ABAG should then implement a permit system whereby each company responsible for creating hazardous wastes must demonstrate that it has arranged for proper disposal of them before receiving an operating license.*

AMENDMENT 3: DISCOURAGE THE PROLIFERATION OF POLLUTING INDUSTRIES AND USE OF HIGH-SULFUR FUELS

A major purpose of the Environmental Management Plan is to assure residents of the Bay Area that the ambient air quality in the foreseeable future will meet all federal air quality standards deemed necessary to protect human health and welfare. CBE commends ABAG for its strides toward the development of an air quality plan which, if properly enforced, will substantially clean up our air and probably attain the federal air quality standard for oxidants. We believe, however, that ABAG has ignored its responsibility to provide plans for the attainment of federal standards for other major air pollutants, especially sulfur dioxide.

The ABAG Air Quality Maintenance Plan contains no recommendations for the control of sulfur dioxide. ABAG's projections forecast a 297% increase in SO<sub>2</sub> from fuel combustion, a 227% increase in SO<sub>2</sub> from petroleum refining, and a 2% SO<sub>2</sub> increase from other industrial sources during the 22-year planning period. Though the Bay Area's air now generally meets the federal SO<sub>2</sub> standard, the Plan notes that "Ambient sulfur dioxide levels will increase substantially by 1985," (page VI-164) In view of the severe environmental and health effects which can be caused by SO<sub>2</sub>, this surely means that our air will be decidedly more toxic in 1985 than it is now. ABAG also warns that unless the new California SO<sub>2</sub> standard is modified, that standard will probably be violated in the future.

Sulfur dioxide is a dangerous air pollutant, and CBE does not think it acceptable for ABAG to acknowledge, unless checked, an overall doubling of SO<sub>2</sub> discharges in the Bay by 1985. Rather, ABAG should develop a plan to minimize the increase.

SO<sub>2</sub> is a severe irritant to the eyes and lungs and has been implicated in the genesis and development of numerous fatal diseases, including emphysema and lung cancer. Furthermore, SO<sub>2</sub> acts synergistically with other air pollutants, most notably oxidants, to cause environmental impacts far worse than each pollutant acting independently. SO<sub>2</sub> reacting with ozone has been demonstrated to lower disease thresholds for a large number of important crop plants.

Despite the obvious importance of keeping sulfur dioxide levels in the Bay Area as low as possible, ABAG does not include SO<sub>2</sub> control in its air quality control plan.



CBE believes that Section 1 of the Air Quality Maintenance Recommendations dealing with Stationary Source Control should include a new general policy "to minimize sulfur dioxide emissions in the Bay Area." Proposed actions under this policy should include steps to reduce the use of high sulfur fuels by industry and electric utilities in the Bay Area. Furthermore, ABAG should demand the installation of best available control technology for  $SO_2$  on new and existing  $SO_2$  emission sources. Finally, it would propose a program to review plans for new and modified industrial facilities with a goal of minimizing or preventing any overall increase in  $SO_2$  discharges to the Bay Area.

#### AMENDMENT 4: ENCOURAGE THE DEVELOPMENT AND UTILIZATION OF NON-POLLUTING ENERGY SOURCES

ABAG virtually ignores the role of Bay Area energy use in creating and potentially solving our air pollution problems. The use of high-sulfur fuels will place a significant strain on air quality. In addition, dwindling supplies of relatively clean-burning natural gas, the state government policy against nuclear power and the large citizen support for that policy, all create pressure for the increased use of alternative, clean fuels. ABAG makes the assumption that sulfur-containing fuels - mainly coal and Alaskan oil - will be used much more extensively in the area in the next twenty years and does not propose any energy strategies to prevent this.

The ABAG plan, by its silence on energy issues, promotes the use of polluting fuels instead of discouraging their use. This is contrary to the policy of the California Energy Commission to promote renewable resource energy technologies and energy conservation.

Recent analyses performed by the Energy Resources Group at the University of California and the Lawrence Berkeley Laboratory reveal that California can replace most of the sulfur-containing fuels that it uses.

CBE believes that a new section should be added to the Air Quality Maintenance Plan proposing policies and action to guide Bay Area energy consumption patterns in a direction which would minimize future air pollution. For example, many of the buildings in the Bay Area can be solar-heated. Municipal trash-to-energy conversion systems could be used as a back-up for extended cloudy periods when the storage capacity of the solar heating systems might be exceeded. Industrial uses of these alternative energy resources are also feasible, and use of cogeneration would reduce total fuel consumption. Use of fluidized bed combustion systems would increase the conversion efficiency for many different types of fuels and would probably reduce total emissions of sulfur dioxide.

## REFERENCES

1. Association of Bay Area Governments Environmental Management Task Force, Draft Environmental Management Plan for the San Francisco Bay Region, Vol. 1 (Berkeley, CA: December 1977), 550 pp.
2. M. Christensen, et al., Distributed Energy Systems in California's Future: A Preliminary Report (LBL-6831) (Berkeley, CA: Lawrence Berkeley Laboratory, University of California, September 1977), Vol. 1, 233 pp., Vol. 2, 371 pp. For a synoptic review of this report, see: David Dinsmore Comey, "Can California Be Made Energy Self-Sufficient?" CBE Environmental Review, January 1978, pp. 3-6. For a further discussion of such technologies, see: Amory B. Lovins, "Energy Strategy: The Road Not Taken?" CBE Environmental Review, November 1976 and December 1976; and Amory B. Lovins, Soft Energy Paths: Toward a Durable Peace (Cambridge, MA: Ballinger Publishing Company, 1977), 231 pp.



## EXHIBIT 2

# BAY AREA COUNCIL

April 19, 1978

## TO ALL MEMBERS, ABAG EXECUTIVE BOARD:

The Bay Area Council has been deeply involved with the EMP process since its outset, and has acted as the business community representative on the Environmental Management Task Force. Over the past two years, the Council has channeled a great deal of effort into the Environmental Management Program because we saw it as a unique opportunity to deal with environmental issues in a more comprehensive manner than was previously possible.

THE COUNCIL SUPPORTS BOTH THE DIRECTION AND THE SUBSTANCE OF EMTF'S RECOMMENDED AMENDMENTS TO THE DRAFT PLAN (with some minor exceptions we are discussing with ABAG staff). The Air Quality Management Plan (AQMP) and its proposals for stationary source controls have been our greatest concern. We view the EMTF-recommended AQMP as an acceptable and reasonable response to the Federal clean air mandate, provided it is augmented with amendments addressing the Plan's potential impact on industrial growth. (We understand the Executive Board will be considering certain clarifying amendments that do deal with this issue.)

However, we still have some serious doubts whether the region will in fact be able to meet the Federal mandate without disruptive economic, social and fiscal effects. EMTF has called for Congressional re-examination of the Clean Air Act requirements. We urge the ABAG Executive Board to support this recommendation, and to question the "zero-risk" philosophy that underlies the Act. Congress should attempt to determine whether, realistically, we can reach a state in which there is no risk of adverse health effects from air pollution to anyone, at any time, in any place, and whether there is an acceptable level of risk that is achievable. We understand the Executive Board will be considering adoption of EMTF's recommendation, and recommend that it be strengthened by the following modification:

The Bay Area Council, established in 1915, is a private, non-profit organization involved in research and advocacy on statewide public policy issues such as environmental quality, economic vitality, transportation, and regional planning and government.

## EXECUTIVE COMMITTEE

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ARJAY MILLER  
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Graduate School of Business  
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The ABAG Environmental Management Plan is a good faith effort to meet stringent standards for air quality, though it may not be possible to attain such standards without significant economic and social burdens, and it is the recommendation that a re-examination of the philosophy and requirements of the Clean Air Act be conducted by Congress to make them reasonable for local governments seeking to comply.

The proposed AQMP amendments we mentioned earlier would address one of our chief concerns about the Plan's potential impacts, namely, that it may be a no-growth Plan for industries subject to New Source Review rules. While the Plan policies--and the Clean Air Act--allow use of provisions other than case-by-case offset to permit industrial growth, the Plan projections show such growth as occurring only through offsets. However, the Council believes the offset provision may not be workable. Offsets will be increasingly difficult to obtain as existing sources comply with new controls. Furthermore, industry may not be willing or able to buy up sufficient existing emissions to permit new construction. Therefore, our support of the Plan is contingent upon approval of AQMP amendments that would provide for exploration and consideration of alternatives to the case-by-case offset.

There are several alternatives that should be considered. One approach consistent with the Clean Air Act Amendments of 1977 would be to incorporate an emissions increment reserved for industrial growth in the region's air quality strategy. We recommend that the Executive Board direct ABAG staff to determine, at the earliest possible date, whether the region's adopted Plan will meet federal requirements for minimum annual incremental reductions toward the 1987 goal for attainment of standards, and whether our air quality strategy will accommodate an industrial growth increment.

We understand that EPA is currently conducting a review of the federal ambient air standards, and that there is a good likelihood the oxidant standard will be revised from .08 to .10 parts per million peak concentration. If so, we may want to use this opportunity to accommodate an increment for industrial growth, if the region is obtaining sufficient emission reductions to make the required progress toward the new standard.

The Council recognizes that even if the AQMP is modified as EMTF recommends, the air quality control strategies will carry a sizeable price tag and will have considerable--but presently unknown--impacts on the region's economy, employment, tax base and social climate. Thus, thorough and consistent monitoring of the Plan's impacts should be integral to continuing planning.

We recommend that ABAG explicitly reserve the right to modify its adopted air quality plan if there is a change in the Federal air standards or Clean Air Act requirements, or if the Plan's impacts prove to be overly burdensome. (Furthermore, if changes in the Federal standards or requirements are proposed before the Continuing Planning Process is formally underway, ABAG staff should be directed to begin draft Plan revisions accordingly.)

Because of our concerns with the consequences of implementing an AQMP and with the stringent nature of the Federal Clean Air mandate, the Council sees a Continuing Planning Process as necessary to provide feedback on how--and whether--the region can meet state and federal air quality requirements.



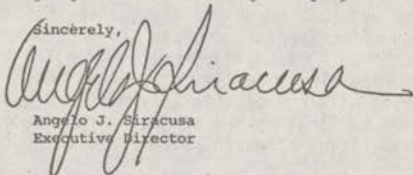
We support ABAG sponsorship of a Continuing Planning Process that includes the participation of local officials as well as representatives of interest groups. In our view, ABAG is the body presently most capable of considering the total environmental, economic, social, fiscal and political well-being of the San Francisco Bay region, and EMTF has shown that a broad-based participatory process can effectively represent diverse interests in the region.

In sum, we recommend that the ABAG Executive Board:

1. adopt the EMTF-recommended version of the Environmental Management Plan, with amendments providing for ongoing exploration of alternative techniques and potential opportunities to accommodate a reasonable level of industrial growth.
2. endorse and strengthen EMTF's statement calling on Congress to re-examine the Clean Air Act requirements.
3. direct staff to begin modifying the region's Plan if changes in the Federal air quality standards or requirements are proposed.
4. direct ABAG staff to gauge whether our AQMP will allow us to meet federal requirements for annual incremental reductions toward the 1987 attainment deadline, and whether our progress will be sufficient to accommodate a reasonable level of industrial growth.
5. establish a Continuing Planning Process that can monitor Plan impacts, provide a vehicle for future deliberations on the region's air quality strategy, and provide a forum for local-level response and challenge to the mandates of higher levels of government.

While the EMP effort has been controversial, we have viewed it as a very worthwhile process. The Council has appreciated the opportunity to participate, and we look forward to involvement in ABAG's ongoing environmental management program.

Sincerely,



Angelo J. Siracusa  
Executive Director

AJS/dwp

cc: Alternate Representatives

18 April 1978

MEMO TO: Executive Board Members  
Association of Bay Area Governments

FROM: Jeff Gabe, CBE Staff Scientist

**CITIZENS  
FOR  
A  
BETTER  
ENVIRONMENT**

1. On April 20, 1978, the Executive Board of ABAG will be deciding the fate of the regional Environmental Management Plan proposed by the ABAG Environmental Management Task Force. The Plan is an integral part of the Bay Area's future efforts to achieve environmental quality, and contains many measures that we feel will result in a healthier environment for all Bay Area residents.
2. Citizens for a Better Environment [CBE] supports the Water Quality, Water Supply, and Solid Waste Management measures of the Plan as they now exist. Although we had hoped to incorporate some stronger measures in these areas, we are generally pleased with them and urge you to support them.
3. We urge you to upgrade the Air Quality Maintenance Plan measures by reinstating effective land use and transportation controls, since in its present form the AQMP provides neither for the attainment nor the maintenance of federal air quality standards. Recent developments indicate that the Plan will not be able to reduce hydrocarbon emissions to the 450 tons per day that is the projected requirement if the area is to meet the federal oxidant standard. There are three reasons for this:
  - (a) The California Air Resources Board [CARB] has indicated that the heavy-duty vehicle retrofit measures — a vital part of the Plan — will not be technologically or sociologically feasible. As a result, the 25 tons per day reduction achieved through this measure will not be available.
  - (b) There are no funds available for implementing transportation measures, since the revenue-generating portions of the Plan (increased bridge tolls and parking taxes) were eliminated. Hence the 7 tons per day reduction from these measures is an unrealistic figure.
  - (c) According to officials at the Bay Area Air Pollution Control District, a sizeable portion of the 64 tons per day reduction due to application of New Source Review and the Offset Policy — perhaps up to 50 tons per day — is already included in the estimates they developed for emission reductions due to application of Best Available Control Technology; as a result of this double accounting, the 64 tons per day figure is an inflated one.





4. It is CBE's professional opinion that the ABAG Executive Board is now considering an Air Quality Maintenance Plan that will not provide for the attainment of federal air quality standards. Furthermore, even if the standards were met as of the date anticipated in the Plan, the elimination of land use measures and transportation controls leaves no means of maintaining those standards.

5. We feel compelled to point out that if these serious failings of the AQMP are not corrected by ABAG, then the CARB will have the responsibility of drastically improving the Plan before it is submitted to the U.S. Environmental Protection Agency as part of the State Implementation Plan [SIP] required to be filed on January 1, 1979. Without such improvements, the Plan will not meet U.S. EPA's requirements for an acceptable SIP.

6. If ABAG fails to act in anticipation of CARB's corrections, then ABAG will have lost local control over these issues. Those of ABAG's constituents who feel strongly about maintaining local control over regional planning will view CARB's changes as outside interference, and this may result in deterioration of cooperative efforts to solve Bay Area problems, and further delay getting clean air.

7. If ABAG fails to act, it runs grave economic risks to the Bay Area. The U.S. EPA is mandated by the Congress to impose economic sanctions if a SIP is found unacceptable or is delayed. The total losses to the Bay Area may include the following:

(a) \$170 million in federal funding (from 1979-1982) for the Metropolitan Transit Commission's Transportation Improvement Program; this money would be lost because Section 176(a) of the federal Clean Air Act requires that all transportation funds "other than for safety, mass transit or transportation improvements related to air quality achievement or maintenance" must be withheld in areas where any national ambient air standard is not met or where there is not an acceptable SIP.

(b) \$70 million per year (or more) of funding for construction of facilities subject to the Bay Area Air Pollution Control District permit process; this money could be lost because Section 113(a)(5) grants the U.S. EPA Administrator the authority to prohibit construction or modification of any major stationary sources if there is not an acceptable SIP.

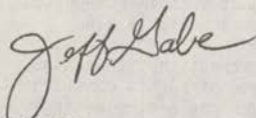
(c) \$60-110 million in federal grants over the next twenty years for sewage treatment that can be withheld by U.S. EPA in similar circumstances under the authority granted in Section 316 of the Clean Air Act.

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8. Thus the Bay Area may lose approximately \$130 million a year in federal grants and construction money if the mandated requirements of the Clean Air Act are not met. If such losses occur, the public may well blame ABAG for having failed to act to prevent them.

9. Citizens for a Better Environment urges the ABAG Executive Board to reinstate effective land use and transportation controls as part of the Air Quality Maintenance Plan it approves on April 20, 1978.

Respectfully submitted,



Jeff Gabe  
Staff Scientist  
Citizens for a Better Environment  
88 First Street, Suite 600  
San Francisco, CA 94105  
(415) 777-1984



EXHIBIT 4

28 April 1978

Tom Quinn, Chairman  
 California Air Resources Board  
 1709-11th Street  
 Sacramento, California 95814



Dear Mr. Quinn:

On April 20th, the Executive Board of the Association of Bay Area Governments (ABAG) approved a severely truncated version of its Environmental Management Plan. Those sections that would have constituted the Bay Area Non Attainment Plan (BANAP) -- to be incorporated into the State Implementation Plan (SIP) that ARB must file with the U.S. Environmental Protection Agency (EPA) by January 1, 1979 -- were removed from the ABAG Plan. A re-examination of these excised sections was delegated to a "Continuing Planning Committee" whose composition and membership are yet to be determined.

The ARB is ultimately responsible for submitting an approvable SIP to the EPA. We recognize that the failure on the part of ABAG to fulfill its role on a timely basis places a considerable burden on your agency to come up with a BANAP for the Bay Area by the end of the year.

Citizens for a Better Environment, which has played an active role in working with the ABAG Environmental Management Task Force on formulating an acceptable Plan, is very concerned that the whole process will fail to protect the health and economic well-being of the Bay Area community.

We share the concerns voiced by ARB's Planning Chief William Lockett in his letter of 19 April to Rod Diridon, President of ABAG. Specifically, we agree with Lockett that the deletion of land use and transportation controls represents a significant deficiency in the Plan. We further believe that the present ABAG Plan will not meet 1982 federal clean air standards or qualify the Bay Area for a five-year waiver for attainment of the oxidant standard. This means that federal sanctions would be in order as soon as July 1979.

In a memorandum to the Executive Board of ABAG dated 18 April 1978 (a copy of which is enclosed), I pointed out that federal sanctions could involve penalties to the Bay Area of up to \$130 million per year. Our projections were confirmed by an 8-page memorandum prepared by EPA's Office of Regional Counsel and transmitted to ABAG by the EPA Regional Administrator the following day.

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Recent pronouncements by David Hawkins, Assistant Administrator of EPA for Air and Waste Management, warn that states who want "to sit on their hands and call people's bluff" on the sanctions should not do so because "it won't work." (BNA Environment Reporter, Current Developments, page 1908.) Unless an approvable SIP is presented to EPA on January 1, 1979, we see a long series of confrontations, with the Bay Area being the ultimate loser.

We have a further concern. We believe that whatever process is used henceforth to generate an approvable SIP, it must continue to involve meaningful public participation. That, however, involves giving the public timely opportunity to comment on drafts and to participate in public hearings. Even under ideal scheduling conditions, it would be difficult to ensure public participation, given the short amount of time available. Unless ARB works out a schedule within the next month, we doubt that the public will have ample opportunity to enter the planning process. Because the SIP will govern how people in the Bay Area are going to live in the next several decades, a failure to allow meaningful public participation is likely to have severe political repercussions.

We have heard from a variety of sources that ARB may "work this one out in the closet until after the November election." We hope that this will not be the case. We would appreciate reassurance that ARB will begin working immediately on an approvable SIP and that there will be opportunity for public participation at every stage between now and 1 January 1979. We therefore hope to have an early response from you to the following questions:

1. When ABAG appoints a Continuing Planning Committee to draft the BANAP for submittal to the ARB, what will be the deadline for such a submittal?
2. Will ARB provide guidelines, specific requirements, and funding to assist ABAG in drafting the BANAP?
3. Will any meetings between ABAG and the ARB staff be announced in advance, and will members of the public be permitted to attend?
4. At what point will ARB take over responsibility to produce a BANAP if the Continuing Planning Committee fails to address its task seriously?
5. What will be the schedule for circulating BANAP documents for comments by other agencies and the public?
6. Will there be public hearings in the Bay Area on the final proposed BANAP no later than October so that public comments can be taken into account in the document submitted to EPA on 1 January 1979? If so, when would you anticipate these hearings taking place?



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7. What other procedures do you intend to use to ensure that there will be meaningful public input into the BANAP development process?

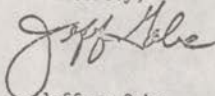
We thought that the ABAG/EMP experiment produced a good Draft Environmental Management Plan, and proposed only four amendments to it (a copy of which is also enclosed). Unfortunately, our recommendations on air quality were relegated to an Addendum to the Plan that the ABAG Executive Board eliminated at its meeting on 20 April 1978.

We are sorry that the planning process, which began so well, has given way to intense lobbying pressure from special interest groups. These interests have succeeded in watering down or eliminating key measures within the Environmental Management Plan since its release in draft form in January 1978. Though it is possible that ABAG's Continuing Planning Committee alone will rejuvenate the Plan, it looks to us that it will be up to ARB to salvage the situation. We are hopeful that you do so and do so with public participation.

We intend to participate actively in the development of a satisfactory BANAP document, and are prepared to have members of our legal and scientific staff work closely with the ARB staff if you so desire.

If you have any points you wish to clarify about the questions in this letter, please do not hesitate to contact us. We look forward to hearing from you at the earliest possible date, since time is short and there is much to be done.

Sincerely,



Jeffrey Gabe  
Staff Scientist

JG:rf  
Enc.

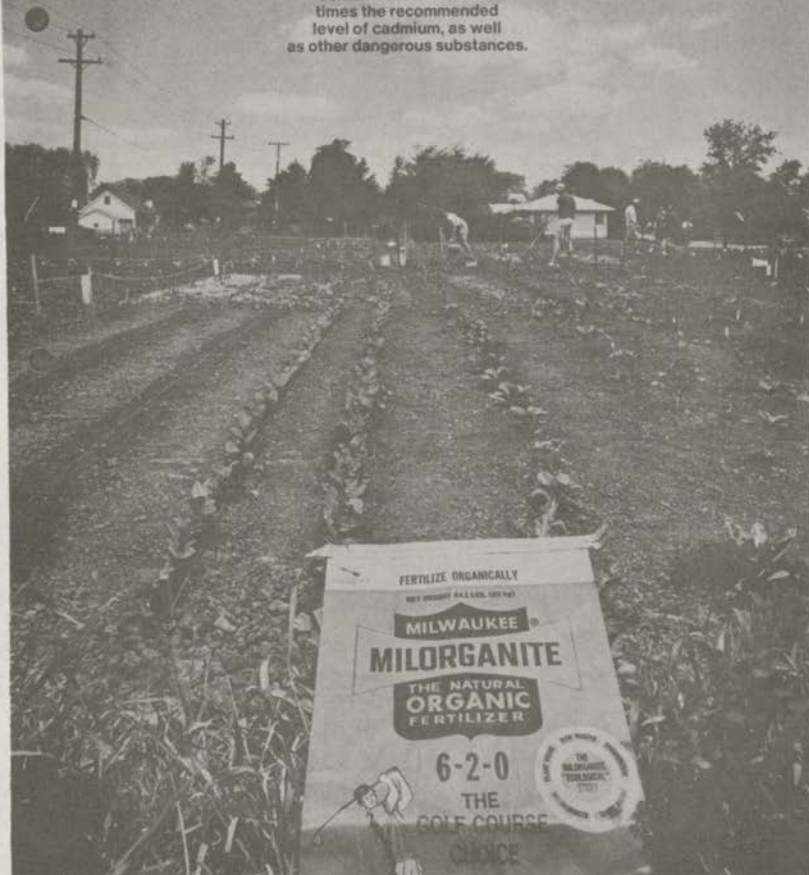
cc: Paul DeFalco, USEPA  
Lawrence Dahms, MTC  
D.J. Kallaghan, BAAPCD  
Rod Diridon, ABAG

# CBE Environmental Review

PUBLISHED BY CITIZENS FOR A BETTER ENVIRONMENT

JULY 1978

This "natural" fertilizer contains more than five times the recommended level of cadmium, as well as other dangerous substances.





# CBE Briefs

## Illinois

### Energy Policy

#### Com Ed Rate Case

CBE presented the expert testimony of Dr. John L. Neufeld before the Illinois Commerce Commission (ICC). Dr. Neufeld analyzed the construction plans of Commonwealth Edison in the light of the utility's forecasted excess reserve margin of 30% in the early 1980s, along with the company's recent decision to retire six fossil-fuel plants earlier than required.

Dr. Neufeld testified that unnecessary construction by utilities can cost utility customers hundreds of millions, even billions, of dollars. He testified that Edison may be undertaking such unnecessary construction, for example the proposed Braidwood Nuclear Station. Cancellation of this station would save Edison's customers \$540 million.

#### Southwestern Wyoming Coal

CBE filed a comment on the draft Environmental Impact Statement being prepared for the Southwest Wyoming coal region. CBE asked the Department of the Interior to consider the socioeconomic impact that may result in Illinois if Commonwealth Edison begins burning Wyoming coal at its Powerton Station. CBE believes that the substitution of Wyoming coal for Illinois coal could cost more than 600 Illinois miners their jobs.

### Air Pollution

#### Wells Manufacturing Case

CBE and the Illinois Environmental Protection Agency presented arguments to the Illinois Supreme Court in the Wells case. Homeowners in the area around Wells had testified before the Pollution Control Board that Wells's emissions were causing people in the area to suffer headaches, nausea, and numerous other physical symptoms. The Board fined Wells \$9,000 and ordered them to reduce emissions. But Wells argued that there is no technical way to control this pollution, and the Illinois Appellate Court ruled in the company's favor. We are appealing this ruling.

## National

### Toxic Substances

#### Effluent Standards

Negotiations with the U.S. Environmental Protection Agency (U.S. EPA) over effluent standards for industry continue. CBE attended a meeting with the National Resources Defense Council and the Environmental Defense Fund in Washington to discuss proposed modifications to our settlement agreement with the U.S. EPA.

#### Alternative Pest Management

CBE has been invited to participate in an Office of Technology Assessment (OTA) panel to discuss "Alternative Pest Management Strategies in Food Production in the Cornbelt." A document on this subject will be prepared by the panel and will be presented to the Senate Subcommittee on Agriculture, Food, and Nutrition in early July.

## California

### Energy Policy

#### Coal Utilization Panel

CBE has completed a report of roughly 20,000 words for the OTA, summarizing current scientific literature on the effects of sulfur pollutants — which are derived primarily from coal combustion — on vegetation. The OTA will use this report as part of its study of the environmental repercussions of implementing President Carter's energy policy, which calls for increased use of coal.

### Water Pollution

#### Sewage Treatment

CBE filed comments with the U.S. EPA concerning proposed regulations which would permit certain communities along the West Coast to gain exemptions from installing efficient secondary water pollution control equipment at their sewage treatment plants as required by the Clean Water Act. CBE feels that such exemptions represent an unnecessary retreat from our national water pollution abatement program and a

threat to ocean ecosystems. CBE urged that very restrictive language be used in the regulations to limit the exemptions to a few special cases where discharges are small and isolated.

## Wisconsin

### Air Pollution

#### J.I. Case Co.

After the Wisconsin Department of Natural Resources (DNR) issued new permits for foundry facilities in Racine without requiring proper Public Service Commission (PSC) review of the project, CBE raised the question of whether the DNR is taking sufficient steps to protect Wisconsin air. CBE is examining procedures used by the DNR to assess impact on air quality, its monitoring of new facilities, and its lack of a permit approval method which would insure that the new Clean Air Act amendments are not being violated.

#### Wisconsin Paperboard

Increasing air emission violations from Wisconsin Paperboard Company have been noticed by Milwaukee residents and by CBE staff. CBE gathered evidence of these violations and has petitioned the U.S. EPA to issue a Notice of Violation as required under section 113 of the Clean Air Act.

### Energy Policy

#### New Power Plant

CBE has attended a series of meetings coordinated by a group of private citizens opposed to the construction of a new coal-fired electric plant in the Belgium-Port Washington area. The proposed facility would injure air quality in Southeast Wisconsin. CBE is advising the group on procedures for intervention and on legal questions.

#### Rate Hike

CBE has intervened in opposition to a Wisconsin Electric Power Company (WEPAC) 6.1%, or \$31 million, rate increase request. CBE won postponement of an immediate 3.4% interim rate increase request, made by the company.

JULY 1978

## Gardeners Beware

*Municipal sanitary districts have been selling and giving away treated sewage as fertilizer. Unfortunately, this sewage is contaminated with heavy metals and other toxic substances that can enter the food we eat. Of particular importance is cadmium, a toxic heavy metal already reaching dangerous levels in the American diet.*

by Dana J. Davoli, Ph.D.

Since 1974, the Metropolitan Sanitary District of Chicago has made available free to the public a digested sludge called Nu-Earth. Thousands of tons of Nu-Earth, an end-product of city sewage that would otherwise have to be disposed of at great cost, have been used by Chicago-area gardeners as a soil conditioner and fertilizer. Similar sludge-disposal programs have been used around the country. The city of Milwaukee pioneered in this area with a program begun in 1926. Since then 70,000 tons a year of the Milwaukee product, Milorganite, have been sold throughout the country, generating the Milwaukee Sewerage Commission an income of roughly \$4.6 million a year.

### The FDA has singled out cadmium as being the greatest threat to human health now present in the food supply.

The use of municipal sludge as a soil conditioner and fertilizer at first glance appears to be an excellent method of disposal. What better way to recycle an otherwise wasted resource that is rich in nitrogen, phosphorus, and organic compounds? Unfortunately, the sludges produced by industrial cities are contaminated with toxic substances, including metals such as cadmium, lead, and mercury, and persistent organic compounds such as PCBs and pesticides. Food crops grown on land treated with such sludges can absorb and concentrate these toxins, thereby facilitating entry of hazardous substances into the human food chain.

One of the most present dangers arising from the use of sludges as fertilizers comes from their cadmium content. Cadmium, an extremely toxic heavy metal that is readily absorbed from soil by plants, is present in high concentrations city sludge (Nu-Earth: 180 ppm;

Milorganite: 114 ppm). Reports, recommendations, and proposed regulations published by the U.S. Environmental Protection Agency, the Food and Drug Administration, the U.S. Department of Agriculture, and the General Accounting Office have recognized the health hazards that can result from the use of cadmium-contaminated sludges on cropland. In fact, the FDA has singled out cadmium as being the greatest threat to human health now present in the food supply.

#### Toxicity of Cadmium

Cadmium is a non-essential metal that is virtually absent from the body at birth, but which accumulates with age, mainly in the kidneys and liver. The major source of cadmium intake for humans is through foods, but air, water, and cigarettes also contribute.

Both human and animal data demonstrate that ingestion of cadmium adversely affects many organ systems in the body, including the kidneys, the cardiovascular system (heart and blood vessels), and the skeleton.<sup>1</sup> In humans, the kidney is the first organ to be damaged; in some cases, the condition may progress to complete kidney failure. Although most observable kidney damage occurs when the level of cadmium in the kidney accumulates to 200 ppm, a "safe" level has not been demonstrated. In addition, cadmium has been shown to cause hypertension and arteriosclerosis in animals, and these studies are supported by human data which indicate a correlation between these conditions and exposure to cadmium.

In addition, recent data have led the U.S. EPA-Carcinogen Assessment Group to conclude that cadmium is an oncogen, a tumor-producing substance.<sup>2</sup> Human studies have shown significant increases in prostate cancer among persons occupationally exposed to cadmium. And the presence of cadmi-

Dr. Davoli is a CBE staff scientist



At a Nu-Earth distribution site, photographed in early June, the Chicago MSD had a "No Dumping" sign, but none of the promised signs that would warn Nu-Earth users of the hazards of using sludge on vegetable gardens. (Photo by David Dinsmore Conroy)

### If You Have Used Sludge on Your Garden

CBE and other groups looking into the problem of contaminated sludge have determined that vegetables should not be grown on soil that has been treated with sludge. This is the advice being given to people who call the University of Illinois Cooperative Extension Service, as well as CBE.

If you still feel that you want to grow vegetables in a sludge-treated garden, we recommend that you not grow root crops, such as carrots, or leafy vegetables, such as lettuce. Instead we recommend that you grow crops such as corn or tomatoes. Also, it is possible to reduce plants' uptake of cadmium and other toxic substances by increasing the alkalinity of the soil. You can test the acidity of your soil by using a soil test kit, such as can be purchased in a garden supply store. The alkalinity of the soil can be raised to more than pH 6.0 by using lime, which can also be purchased in garden supply stores.



## Nu-Earth gardeners warned of poisoning, cancer hazards

Warnings to accompany Nu-Earth Sanitary Dist. fertilizer called a health hazard

Chemist urges food growers to shun Nu-Earth

Plan alert signs at Nu-Earth sites

Milorganite feed warning

It is not a coincidence that, while many cities continue to distribute sludge as a garden fertilizer, the only cities that have, as of May 1978, discontinued the practice are Chicago and Milwaukee, where Citizens for a Better Environment has local offices.

In late January, CBE staff scientist Dana Davoli testified before the Illinois Pollution Control Board to the effect that solid wastes left after treatment of sewage could contain high levels of toxic substances. In March, CBE presented a report, "Milorganite Gardening: A Health Hazard," to the Milwaukee Sewerage Commission (MSC), and in April CBE formally requested that the MSC ban Milorganite sales. The MSC has agreed to affix labels to all Milorganite bags indicating clearly that Milorganite should not be used on soil on which crops for human consumption may be grown.

In April CBE also testified at Environmental Protection Agency hearings in Washington D.C. concerning the health hazards that may result from use of municipal sludge as a fertilizer. As a direct result of CBE's having informed EPA of this hazard, the agency is now taking steps toward controlling the use of such sludge.

In May, CBE appeared at a special meeting of the Metropolitan Sanitary District of Greater Chicago (MSD) to protest the MSD's sludge-distribution program. Since 1974, the MSD has given away sludge fertilizer free, without controlling the uses to which it will be put. Since CBE began alerting the public and government agencies to the danger, however, the MSD has begun to require that people taking sludge fill out a form explaining the use for which it is intended. The MSD has also agreed to post warning signs at all sludge distribution points.

CBE held a press conference on the hazards of sludge-based fertilizers, and this press conference was widely covered in the local press. It also received some attention nationally, for example in California, where other sludge-fertilizer programs, similar to those operated by Chicago and Milwaukee, also exist.

It has been a practice of municipal sanitary districts such as the MSC and the MSD to play down the hazards arising from the presence of toxic substances such as cadmium in their sludge-derived fertilizers. This may be because the sanitary districts find the use of sludge as fertilizer a convenient and inexpensive way to dispose of this sludge, which otherwise might have to be disposed of at great expense. CBE believes that the use of sludge as fertilizer could be an excellent way to recycle this valuable organic waste. For this reason we are strong advocates of pre-treatment standards for industry — that is, we wish to see toxic substances removed from waste at the source, long before they have an opportunity to contaminate our food and water.

Until such standards are brought into effect, however, the use of municipal sludge on home gardens will be ill-advised. We regret the inconvenience to home gardeners, but we believe that people should be informed of the hazards they face.

um in U.S. drinking water has been correlated with cancer of the pharynx, esophagus, intestine, larynx, lung, and bladder in those areas.

The Office of Special Pesticide Reviews of the U.S. EPA has concluded that cadmium is an oncogen, a mutagen (causing chromosome damage), and a teratogen (causing birth defects).<sup>3</sup> As a result, EPA has taken steps to ban pesticides containing cadmium.

### Cadmium in the Human Diet

In 1972, the Joint Committee of the World Health Organization and the Food and Agriculture Organization of the United Nations published a report on cadmium.<sup>4</sup> This group concluded that, "...the present day levels of cadmium in the kidney should not be allowed to rise further." The group proposed a "provisional tolerable weekly intake of 400 micrograms ( $\mu\text{g}$ ) — 500  $\mu\text{g}$  per individual (57—71 per day)" to protect

Americans are already ingesting nearly enough cadmium to cause kidney damage in from 2.5 to 5.0% of the population.

against kidney damage. They did not consider the more recent data on oncogenicity, teratogenicity, or mutagenicity.

More recently, Dr. Tord Kjellström conducted a study of a group of Japanese women in which he calculated the proportion of women with kidney damage at age 50 as well as the level of cadmium in their diet.<sup>5</sup> Using such data, it was possible to estimate the proportion of a population that will have kidney damage at age 50 at given levels of cadmium consumed daily in foods. (Table 1.) Assuming a weight of 70 kilograms (about 160 pounds) for American males and 53 kilograms (about 110 pounds) for American females, his data indicate that 2.5% of the male population and 5.0% of the female population in the U.S. would develop kidney damage at age 50 if their diets contained 80  $\mu\text{g}$  and 76  $\mu\text{g}$  of cadmium per day, respectively.

How does the average American's intake of cadmium compare to the levels of ingestion known to cause kidney damage? From its 1974 survey of heavy metals in foods, the FDA has concluded that the average national dietary intake of cadmium from food among teenage

Table 1

Food Class	Concentration of Cd in FDA Market Survey in ppm (dry weight)	Concentration of Cd in Crops Grown on Sludge in ppm (dry weight)	Increase in Cd Concentrations in Sludge-Grown Crops	$\mu\text{g}$ of Cd/Day in Normal Diet from Each Food Class (FDA survey)	$\mu\text{g}$ of Cd/Day in Diet from Each Food Class Grown on Sludged Land
Grains.....	.05	.30	500%	11.66	70
Leafy.....	.51	5.78	1033%	3.18	36
Legume.....	.01	.87	8600%	0.42	36
Roots.....	.21	1.11	428%	0.76	4
Garden Fruits.....	.19	.33	74%	1.71	3
				17.73	151

males is 72  $\mu\text{g}$  per day. Therefore, a segment of our population is already ingesting that amount of cadmium which the WHO/FAO says should not be exceeded in order to protect against kidney damage. According to Kjellstrom, this is nearly the amount that would result in kidney damage to a substantial portion of the population. The FDA figures do not include amounts of cadmium absorbed from air and cigarettes.

From data on kidney damage alone, it is obvious that levels of cadmium in the human diet should not be allowed to increase. The more recent evidence showing cadmium to be an oncogen strengthens this position since a "safe level" for chemicals which cause tumors has never been demonstrated.

#### Additional Hazards of Sludge

A recent U.S. EPA analysis of Chicago sludge from the Stickney plant found that it contains 13 ppm of polychlorinated biphenyls (PCBs) and levels as high as 24 ppm of compounds known as polynuclear aromatic hydrocarbons (PAH). As most people are now aware, PCBs cause cancer, reproductive failures, and nerve damage and are thought by some scientists to be among the most toxic and persistent substances known. Data on the PAH are less complete, but it is known that several members of this class of compounds are carcinogens.

It is likely that a hundred other persistent toxic chemicals are also present in sludge. A large proportion of the hazardous substances discharged into sewage by industry is not removed during the sewage treatment process.

How hazardous are these contaminants when sludge is used on gardens? The answer is unclear because little data is available to show how PCBs and

#### Sludge from Chicago and Milwaukee contains more than five times the level of cadmium recommended by the FDA for sludges to be applied to croplands.

other persistent organic compounds are taken up by crops. It is known, however, that root crops such as carrots are capable of absorbing PCBs and persistent pesticides from the soil. Carrots can absorb up to 30% of the PCBs present in soil.

#### Hazards of Cadmium in Chicago and Milwaukee Sludge

The amount of cadmium absorbed from soil by food crops depends on various factors: soil acidity/alkalinity, soil cadmium concentration, crop varieties, soil absorption capacity, and soil temperatures. CBE has estimated that, if the application rate suggested by the Metropolitan Sanitary District of Chicago were followed (two bushels of

Nu-Earth per 100 square feet, or a depth of 0.3 inches, applied to an alkaline soil of pH greater than 6), one application of Nu-Earth will lead to soil cadmium concentrations of 5.4 ppm. Recommended application rates for Milorganite are lower. But until recently neither the MSD nor the MSC attempted to warn consumers of risks that might result from use of their products. As a result, we believe that recommended rates have often been exceeded. This is particularly true in the case of Nu-Earth, which can be and often has been used in place of dirt. In addition, repeated applications of these fertilizers will increase the levels of cadmium in the soil.

#### Sources of Dietary Cadmium

In its 1973 national survey, the Food and Drug Administration calculated the concentration of cadmium in several food classes and the contribution of each food class to the diet.\* (See Table 2, column (1).) As an example, leafy vegetables contain an average of 0.51  $\mu\text{g}$  of cadmium and contribute 3.18  $\mu\text{g}$  of cadmium per day to the average diet.

Experiments conducted by Giordano and Mays<sup>7</sup> and Chaney and coworkers<sup>8</sup> demonstrate the levels of cadmium that result in vegetables and grains grown on sludge fertilized soil. (See Table 2, column (2).) In these experiments, soil cadmium concentrations ranged from 0.4 to 2.73 ppm and pH ranged from 6.3 to 7.0. Using the results of Giordano and Mays

Continued on page 10.

Table 2

Food Class	(1) Concentration of Cd in FDA Market Survey in ppm (dry weight)	(2) Concentration of Cd in Crops Grown on Sludge in ppm (dry weight)	(3) Increase in Cd Concentrations in Sludge-Grown Crops	(4) $\mu\text{g}$ of Cd/Day in Normal Diet from Each Food Class (FDA survey)	(5) $\mu\text{g}$ of Cd/Day in Diet from Each Food Class Grown on Sludged Land
Leafy.....	0.51	28.6	5500%	3.18	178
Grains.....	0.05	1.32	2540%	11.66	307
Legumes.....	0.01	2.74	27300%	0.42	115
				15.26	600



## ABAG and Local Control

*Ideally, local agencies should be in charge of environmental planning for their areas. In theory, such agencies are best suited to determine the needs of all the interest groups in their area, and balance them against environmental considerations. In practice, however, local politicians may be unwilling to antagonize special interest groups.*

by David Comey

The U.S. is now struggling to meet the requirements of the Clean Water Act and the Clean Air Act and its Amendments. If successful, the country will be close to achieving a goal that, not long ago, seemed nearly impossible: clean air and clean water, achieved without major economic dislocation.

The key to this process is careful planning — so that social, economic, and environmental considerations can be balanced without prejudice to any of the three. Thus the Clean Water Act of 1972 provides federal money to local agencies so that they can determine acceptable limits for the pollution of their waterways and plan the growth of their

communities accordingly. The Clean Air Act Amendments of 1977 require the states to submit plans for attaining federal air pollution standards by Janu-

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**The U.S. gave the Bay Area \$4.3 million for a unique experiment in local environmental management.**

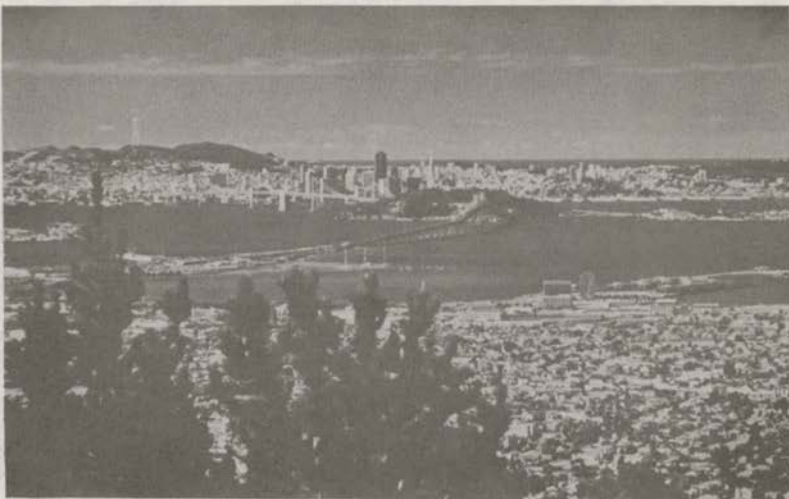
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ary 1, 1979. These documents, after being approved by the U.S. Environmental Protection Agency (U.S. EPA) are intended to control air pollution for 25 years. The states are given until 1982 to

implement their plans. Metropolitan areas can obtain an additional five-year extension of the deadlines for attaining federal carbon monoxide and photochemical oxidant standards, if they have, in good faith, attempted to meet these standards and have been unable to do so.

But Congress had an overriding concern in passing these important pieces of environmental legislation, and this was the attainment of clean air and clean water, for the sake of all Americans. The federal legislation calls for the U.S. EPA to step in if states and/or local governments shirk their responsibilities under the law.

*The Bay Area's deteriorating air quality rarely permits a clear view of San Francisco and Marin County such as this one taken from Berkeley.*



Recently the State of California attempted a unique experiment in local environmental planning — one which could have been a model for future attempts at balancing the interests of all groups against the ultimate importance of protecting the biosphere. This experiment now appears to have been a failure, largely because local officials were unwilling to face controversy, preferring to pass on responsibility for such decisions to higher levels of government.

In moving to comply with federal environmental requirements, the State of

California invited the Association of Bay Area Governments (ABAG) to arrive at a comprehensive environmental management plan for the nine-county Bay Area.

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**Failure to comply with the Clean Air Act could cost the Bay Area \$130 million a year.**

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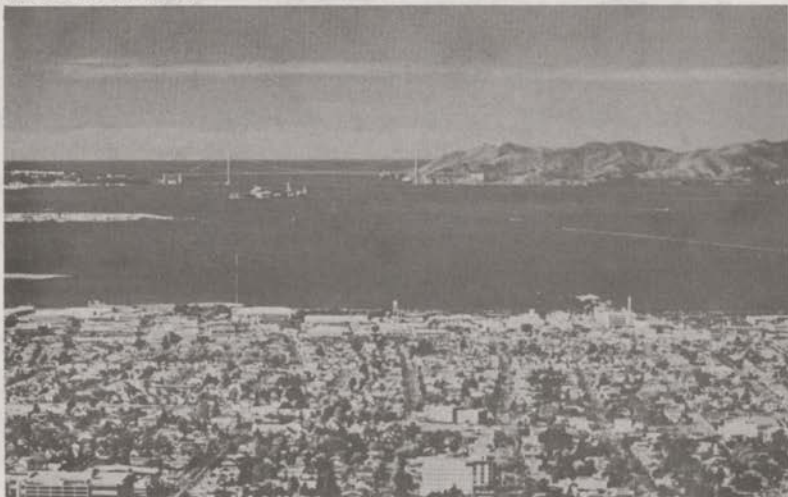
Not just air pollution or water pollution, but air pollution, water pollution, and solid waste management were to be addressed, simultaneously. The U.S. EPA gave ABAG \$4.3 million for this project,

assembling funds provided under numerous pieces of federal legislation. Thus planning for growth was to be unified with environmental protection, and local agencies — not federal or state bureaucrats — were to make the decisions.

The ABAG staff, together with numerous other agencies, labored for several years to produce this plan, a draft of which was released in January, 1979. The California Air Resources Board (CARB) and other state agencies, as well as local environmental groups such as Citizens for a Better Environment, reacted favorably to the plan, on the

David Comey is CBE's Executive Director.

(Photo by David Dinsmore Comey.)





## CBE Environmental Review

whole. The draft document clearly showed that local planners can capably address themselves to local environmental problems.

But certain sections of the plan fell under sharp criticism from area industry, banks, and labor unions. Specifically, they attacked the sections intended to bring the Bay Area into compliance with the provisions of the Clean Air Act. These sections formed the Bay Area's



contribution to the Air Quality Management Plan which the State of California is required to submit to U.S. EPA by January 1, 1979. The sections dealt with transportation and land use; they would have instituted measures to improve public transportation and discourage use of private automobiles, and they would have imposed tight controls on where industries could be located and new construction could take place.

In the controversy that followed, an organization called the Bay Area Council, representing industry and banks, took the position that Congress should re-examine the requirements of the Clean Air Act, on the grounds that they are too strict, while a coalition of groups, including the Bay Area Lung Associations, the Sierra Club, the Natural Resources Defense Council, and CBE, presented recommendations which would have strengthened the plan. On April 20, ABAG's Executive Board opted to eliminate all the controversial provisions from the environmental management plan, passing these provisions on to a "Continued Planning Committee" for study. At this writing, the Committee has not been appointed; CBE is seeking appointment to it.

In effect, ABAG has responded to controversy by sidestepping its role in designing California's clean air plan. The responsibility now lies entirely with the California Air Resources Board, which has less than eight months before the federal deadline must be met. The CARB is also not eager to involve itself in a controversy, particularly before the elections that will take place in November.

In April, CBE discovered that CARB officials intended "to go into the closet

until after the November election" in releasing a clean air plan. CBE instantly protested, pointing out that from November to January there will not be sufficient time to hold adequate public hearings on such a plan, as required under the Clean Air Act Amendments.

CBE staff scientist Jeffrey Gabe warned publicly — and his statement received wide local coverage — that the Bay Area stands to lose as much as \$130 million annually in federal and other funds if an acceptable plan is not presented to U.S. EPA by January 1. Under the Clean Air Act Amendments, U.S. EPA will not be able to make grants for projects such as sewage treatment facilities, and the government will not be able to provide money for transportation (except for safety) in the Bay Area until a good faith effort is made to comply with the law. CBE's contention was supported by a memorandum from the Office of the Regional Counsel of the U.S. EPA. The Regional Administrator of the EPA, Paul De Falco Jr., issued a statement to the effect that EPA will certainly impose the sanctions required by the law.

James Cannon, CBE Research Director, told reporters, "The ABAG process was an important exercise in local control, but the plan as it now stands is not good enough. We are now faced with increasing control by the state and federal government, but Congress was very clear in the Clean Air Act. If local governments can't come up with an environmental program to protect their citizens, state governments should, and the federal government will."

Unfortunately, there is a real danger that state and federal officials will respond to this failure on the local level by devising the kind of "heavy handed" environmental regulations that are unpopular among many citizens. For example, discussions with officials indicate that one proposal for reducing hydrocarbon emissions would place strict regulations on the use of gasoline-powered lawn mowers. Such regulations "do the job," but they are a far cry from the kind of careful planning for growth, and the careful balancing of social, economic, and environmental considerations, that is the ideal way to comply with the federal law. Such unpopular regulations inevitably create a backlash against environmental values in general. And this plays into the hands of who would like to see our existing federal laws weakened.



JULY 1978

# Environmental Briefs

A summary of recent developments in the area of science and environmental regulation.

**Toxic Substances:** (Control) The Organization for Economic Cooperation and Development (OECD) is mounting a major effort toward international cooperation in the regulation of toxic chemicals. (*Pesticide & Toxic Chemical News*, May 10) ... In an effort to avoid further crises similar to that involving PBBs several years ago, Michigan has established a toxic substances control commission that can declare toxic substance emergencies in the state. It also has other wide powers in the control of toxics. The new law establishes a \$5,000 per day fine for failure to report evidence of an abnormality or irregularity in human or animal health or behavior caused by a toxic substance. (*Chemical Regulation Reporter*, May 19) (Velsicol Chemical Co. of Chicago and the other company charged with federal law violations in the Michigan PBB disaster pleaded no contest and were each sentenced to pay \$4,000 in fines, the maximum under the law. The two companies have paid more than \$40 million to farmers whose herds were lost to PBB contamination — *New York Times*, May 20.)

(Nuclear Wastes) The House Government Operations Committee issued a report suggesting that further nuclear power plant licensing be halted until radioactive waste problems are solved. The report found that the costs of nuclear power, including the cost of waste disposal, might be much greater than those for "safe, renewable resource energy alternatives such as solar power." At least 3,000 metric tons of spent nuclear fuel are being stored at commercial reactor sites, and an additional 17,000 metric tons are expected to accumulate in the next decade. (*Environment Reporter*, May 5) ... More than 25 pounds of enriched uranium are missing from a Pennsylvania processing plant producing reactor fuel for nuclear submarines. Total losses at the plant amount to 438 pounds since 1968. (*Chemical & Engineering News*, May 22) ... Michigan Gov. Wm. Milliken has signed a bill banning, with few exceptions, disposal and storage of radioactive wastes in the state. (*ER*, May 8)

(Hazardous Wastes) It may cost the state of Massachusetts \$1.5 million to clean up a hazardous waste treatment facility there. The company that operated the facility went bankrupt in December, leaving 15,000 containers of hazardous waste to be removed. (*P&TCN*, May 3) ... In proposing guidelines, EPA has stated that hazardous wastes, mostly industry derived, amount to more than 30 million tons a year, 90% of which is not disposed of properly. (*Pollution Engineering*, April)

(Pesticides) An EPA study group has criticized the way EPA evaluates hazards posed by pesticides in foods. The group said that vegetarians and infants, among others, may be harmed by levels EPA considers "safe" for the general population. (*CRR*, May 19)

(Integrated Pest Management) Scientists in California released 150,000 genetically altered mosquitoes, now immune to carrying sleeping sickness, in an attempt to curb the disease. This is the first large-scale test of this IPM technique, that has proved effective in the laboratory. (*NYT*, May 17)

**Air Pollution:** (Ozone) Scientists at the University of California have found that, while ozone alone does not appear to cause

permanent lung damage, it does weaken the epithelial cells of the lung making it more susceptible to damage by other air pollutants. This effect may not be observed until 24 hours after exposure, and it may last as long as a week. In dogs, levels as low as 0.3 and 0.4 parts per million of ozone have been shown to establish a susceptibility to other pollutants. The U.S. is said to be suffering "an epidemic" of lung disease, possibly because of air pollution. (*ER*, May 12)

(Steel) An EPA draft document states that coke-oven emissions are carcinogenic and also can lead to nonmalignant respiratory diseases. The incidence of lung cancer among coke oven workers is three times that for persons smoking two packs of cigarettes a day, and the impact of coke-oven emissions spreads to a radius of 15 kilometers from the source. EPA estimates that "on the order of 15 million" persons are exposed. (*ER*, May 19) ... EPA says U.S. Steel particulate emissions at its South Works plant on Chicago's South Side are more than twice the permissible amount. The company has been warned to clean up or face civil or criminal sanctions. (*Chicago Tribune*, May 27)

(Lead) With the new EPA standard on airborne lead (1.5 micrograms per cubic meter — a standard CBE was instrumental in helping to obtain) due to go into effect on June 14, a report issued by the American Lung Association and the National Resources Defense Council found that thousands of children and adults in inner city environments, or living close to certain industries, have high lead levels in their blood. Even low levels can cause subpar mental activity and anemia. (*NYT*, May 8)

**Pollution Control:** The President's chief anti-inflation adviser, Robert Strauss, appeared on the NBC-TV "Today" show to rescind statements he had made to the effect that environmental regulation is a major stimulator of inflation. In subsequent meetings with environmental groups, Strauss repeated his assurances that he did not intend to "single out" environmental concerns for attack. (*ER*) ... The Commerce Department has released a survey showing that U.S. business plans to spend \$7.2 billion in capital spending on pollution abatement in 1978, a 3.0% increase over 1977. In real dollars, Commerce says, this actually represents a decrease of 2.0% in spending over last year. Expenditures for pollution abatement will be 4.7% of total capital spending in 1978, compared to 5.1% in 1977 and 5.6% in 1976. (*ER*, March 26) ... A study of the "Macroeconomics of Disease Prevention" in the U.S. shows that since 1900 "gains (in life expectancy) have been small for white males over 30, and only slightly better for the corresponding age groups of white females and for both sexes in the black population. ... Economists note that between 1940 and 1975 the average life span increased 15% while per capita disease care expenditures increased 314% in constant 1967 dollars." The authors conclude that "disease care" must be supplemented by "primary disease prevention," including control of environmental pollution, "if healthy longevity is a desirable goal." (*Science*, June 9)



Continued from page 5.

and Chaney and coworkers, CBE calculated the concentration of cadmium in crops grown under their conditions and compared it to the concentration of cadmium in foods in the FDA survey. (See Table 2, column (3).) We found, for example, that the average concentration of cadmium in leafy vegetables grown under the experimental condition is 5.78 ppm — 1,033% higher than the concentration of cadmium in the leafy vegetables in the FDA survey. All five food classes showed increased levels of cadmium ranging from 74% to 8,600%.

We calculated that a person consuming food grown on a sludge-fertilized garden such as was used by Giordano and Mays and Chaney, *et al.* would consume 151 µg of cadmium from these five food classes, while a person consuming food in the FDA survey ingests 17.7 µg. (See Table 2, columns (4) and (5).) The increased cadmium consumption could be much higher for those whose diet contains larger-than-average amounts of the five food classes or for those whose soil contains higher concentrations of cadmium or is more acid than the soil in the Giordano/Mays/Chaney *et al.* studies.

#### Governmental Proposed Regulations and Recommendations

Because cadmium is an extremely toxic metal, various federal agencies have proposed recommendations and regulations to prevent substantial increases of cadmium in the human diet and to prevent further pollution of the environment.

The EPA Office of Solid Waste<sup>3</sup> has proposed a maximum of 25 ppm for cadmium in solid waste that may be applied to sites where tobacco, leafy vegetables, or root crops will be grown for human consumption. The EPA Office of Special Pesticide Review<sup>4</sup> has recently issued a notice of Rebuttal Presumption of Registration of pesticides containing cadmium. The Food and Drug Administration<sup>5</sup> has recommended that the level of cadmium in sludges applied to agricultural land should not be greater than 20 ppm. And the Department of Agriculture<sup>6</sup> has recommended that leafy vegetables or tobacco should not be grown on sludge-treated cropland. The DOA has also ruled that, when sludges are applied, soil pH should be 6.5 or higher and should thereafter be maintained in the range of from 6.0 to 6.5.

The recommendations made by the FDA and the DOA, in particular, have been in existence since 1976. Nevertheless, municipal agencies such as the Metropolitan Sanitary District of Chicago and the Milwaukee Sewerage Commission failed to act to alert the public to the danger. This is in spite of the fact that sludge from the MSD and the MSC contains levels of cadmium 9 and 5.7 times, respectively, the level of cadmium recommended by the FDA for sludges to be applied to croplands. It has been left almost entirely to concerned organizations such as Citizens for a Better Environment both to alert the public and to pressure the municipal agencies to take steps to protect the public health.

#### Footnotes

<sup>1</sup> "Evaluation of Certain Food Additives and the Contaminants — Mercury, Lead and Cadmium," *Sixteenth Report of the Joint FAO/WHO Expert Committee on Food Additives*, World Health Organization, Technical Report Series No. 505. Also, L. Friberg, *et al.*, *Cadmium in the Environment*, 2nd edition, CRC Press, Inc., Cleveland, Ohio.

<sup>2</sup> "The Carcinogen Assessment Group's Assessment of Cadmium," U.S. EPA, August 22, 1977, R.E. Albert, M.D., Chairman, unpublished.

<sup>3</sup> "Cadmium: Position Document 1," Cadmium Working Group, Office of Special Pesticide Reviews, U.S. EPA, 1977, Richard Troast, Project Manager, unpublished.

<sup>4</sup> *Op cit.* World Health Organization.

<sup>5</sup> T. Kjellstrom, "Calculations of Exposure Limits for the Prevention of Cadmium-Induced Health Effects," unpublished.

<sup>6</sup> "Compliance Program Evaluation, FY 1973," *Heavy Metals in Foods Survey*, Food and Drug Administration, Bureau of Foods. Cited in "ORD Assessment of Health Effects Relating to Municipal Sludge Utilization," unpublished.

<sup>7</sup> P.M. Giordano and D.A. Mays, "Effect of Land Disposal Application of Municipal Waste on Crop Yields and Heavy Metal Uptake," EPA-600/2-77-014, April 1977.

<sup>8</sup> R.L. Chaney, *et al.*, "Plant Accumulation of Heavy Metals and Phytotoxicity Resulting from Utilization of Sewage Sludge and Sludge Composts on Cropland," in press.

<sup>9</sup> *Federal Register*, Volume 43, Number 25 (February 6, 1978), p. 4964.

<sup>10</sup> *Federal Register*, Volume 42, Number 24 (October 26, 1977), p. 56574.

<sup>11</sup> C.F. Jelinek and G.L. Braude, "Management of Sludge Use on Land, FDA Considerations," *Proceedings of the Third National Conference on Sludge Management, Disposal, and Utilization* (Miami Beach, Florida: December 14-16, 1976), p. 35.

<sup>12</sup> J.F. Peri, *et al.*, "Impacts of the Disposal of Heavy Metals in Residues on Land and Crops," *Proceedings of the 1977 National Conference on Treatment and Disposal of Industrial Wastewaters and Residues* (Houston, Texas: April 26, 1977), p. 126.

## The New Leaf for the child in us all

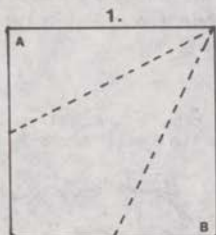
### Ichabod's Coloring Contest Was a Great Success



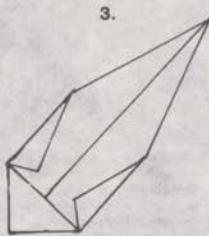
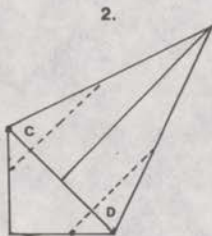
Ichabod Gerbil was very pleased with the response we received to our Sun Day coloring contest. Everyone at CBE enjoyed the entries very much, and they are now decorating one wall of our office. We want to thank all who participated, but especially the artist Andrew Epstein, who graciously donated a Sun Drawing to the New Leaf. We'll be sending out prizes very soon.

JULY 1978

# How to Make a Whale

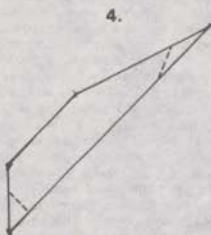


Making a whale is as simple as finding a piece of paper and cutting it square — that is, so that all the sides are the same length. Take corners A and B, as shown in Diagram 1, and fold them as shown in Diagram 2.

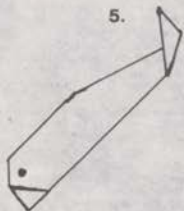


Now take corners C and D and fold them (Diagram 3), and fold the whole thing right down the middle (Diagram 4).

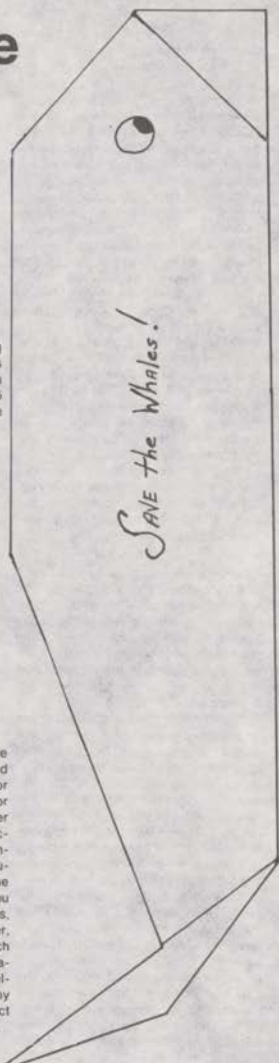
JULY 1978



Now your piece of paper is beginning to look like a whale! The long, thin end is his tale. Fold it up. (Diagram 5.) Now you only have to fold his nose. (Diagram 5 again.) Make a dot for his eye, and he looks like a whale.



You can make several of these whales out of pieces of different colored paper or out of white paper you color yourself and make a whalemobile for your room. (The pattern for this paper whale was created by the Whale Protection Fund, 2100 M Street, N.W., Washington, D.C. 20037, which is one of numerous groups fighting to save the whales from eventual extinction.) If you would like to know more about whales, you may want to refer to the December, 1977, edition of *The New Leaf*, in which we had an article about "The Whale Nation." There are also numerous excellent books available, including one by Capt. Jacques Cousteau, on the subject of this fascinating group of mammals.





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## CBE Holds Press Conference on Nuclear Evacuation

On Thursday, May 25, CBE held a press conference to announce the release of a report on evacuation plans that might take effect in the case of a nuclear power plant accident.

The CBE report found that 300,000 people might die as a result of such an accident, because of lack of planning. Evacuation would be needed to reduce the number of casualties after a large release of radioactive material, and the Nuclear Regulatory Commission (NRC), in estimating the number of deaths that would occur as a result of a nuclear accident, has assumed that 43% of the population within an area 25 miles downwind of the plant could be evacuated within one hour. In fact, however, the NRC has tried to sidestep responsibility for evacuation planning, stating that responsibility lies with the General Services Administration (GSA). GSA has passed most of the work on to the Department of Housing and Urban Renewal, which has officially refused to do a job it legitimately believes should be done by the NRC. As a result, no planning has taken place. The NRC is allowing nuclear power plants to operate in states where no evacuation plans worthy of the name exist.

The CBE report also gave details of evacuation drills and incidents in which there were real releases of radioactivity. In all these instances, attempts at evacuation resulted in chaos.

The press conference was well attended. ABC-TV and CBS-TV carried our report nationally on ABC's "Good Morning America" and "The CBS Morning News." Local TV and radio and both local newspapers carried stories. The UPI and AP carried the story on their wires, and subsequently the story received excellent play in newspapers throughout the U.S. President Carter was in Chicago on that day, and he sent a member of his staff to CBE's offices to obtain a copy of the report. The State of California office in Washington has requested a copy, as has the NRC. A front page item appeared in *The Wall Street Journal*, and *The Washington Post* carried a long article, which prompted the Library of Congress to ask for a copy of our report.

The volume of work being done by CBE is now so great that we find it impossible to confine the CBE Briefs to one page. As a result we have, regrettably, decided to abandon our back-page calendar so that we can have more room in which to inform our members of CBE's activities.



Peter Cleary, staff physicist, and David Conway, executive director, appear before the press at CBE's Chicago office.

ing News." Local TV and radio and both local newspapers carried stories. The UPI and AP carried the story on their wires, and subsequently the story received excellent play in newspapers throughout the U.S. President Carter was in Chicago on that day, and he sent a member of his staff to CBE's offices to obtain a copy of the report. The State of California office in Washington has requested a copy, as has the NRC. A front page item appeared in *The Wall Street Journal*, and *The Washington Post* carried a long article, which prompted the Library of Congress to ask for a copy of our report.

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**Cover Photo:** Since 1926, 70,000 tons a year of Milorganite, a fertilizer derived from Milwaukee sludge, has been sold around the country. The bag clearly states that it contains a "natural, organic" fertilizer for use not only on turf and lawns but also on gardens. But Milorganite contains dangerous levels of cadmium and other toxic substances, which can be absorbed by vegetables. (Photo by David Dinsmore Conway.)

A Reprint from

## CBE Environmental Review

PUBLISHED BY CITIZENS FOR A BETTER ENVIRONMENT

JUNE 1978

## Cancer — Our Social Disease

*A prominent oncologist asks us to consider the real cost of cancer and other diseases that are frequently caused by exposure to toxic substances in the environment.*

by Janette D. Sherman, M.D.

The number of chemicals that adversely affect human health and ecological systems is large and continues to grow. Although there is now widespread public awareness of the hazards of exposure to toxic substances such as asbestos, vinyl chloride, PBBs, PCBs, kepone, lead, and arsenic, most chemical toxicities still go unrecognized and unreported. We are aware of some cases of acute poisoning, but there has been little or no record keeping to assess the long-term effects of exposure to toxic substances.

One of the most dramatic indicators of the impact of toxic chemicals in our environment is the incidence of cancer. Exposure to toxic chemicals may cause other environmentally related diseases

— such as emphysema, pneumoconiosis, and hypertension — and the incidence of these diseases, as a result of environmental factors, may be more

**Those who profit are not the same as those who pay the cost, either economically or with their health and lives.**

widespread than the incidence of environmentally induced cancer. But there is no such thing as a "slight" case of cancer — as is sometimes rationalized in the case of other environmentally induced diseases.

Authorities have estimated that approximately 90% of all cancers are environmentally caused. In 1975, 665,000 U.S. citizens were diagnosed as having cancer, and 375,000 died of cancer — a rate of 1,000 people each day. To this figure can be added a conservative esti-

Dr. Sherman is both a professional chemist and a medical doctor. She currently holds the position of Clinical Assistant Professor in the Department of Oncology at Wayne University in Detroit and is Adjunct Associate Professor in the Department of Labor Education of the School for Workers, University of Wisconsin. She has served as a consultant to Harvard University, the W.E. Upjohn Institute for Employment Research, and NIOSH, and she currently serves as a member of the Environmental Protection Agency's Toxic Substances Advisory Committee.



*If you are a black male living in the San Francisco Bay Area, Alameda County, or Detroit, your chance of developing cancer is greater than that of any other person living in any other area except for an African living in Bulawayo, Rhodesia.*

mate of 390,000 new cases of occupationally related disease each year, with 100,000 reported deaths. Allowing for some overlap between these two sets of figures, we can estimate a yearly health-care burden of more than one million sick citizens and nearly half a million deaths each year from cancer and other environmentally related diseases — many of these illnesses and deaths caused by exposure to toxic chemicals. The death toll alone is greater than the combined number of Americans killed in World War II, Korea, and Viet Nam.

If indeed a large number of these cancers and other diseases are caused by environmental agents, then at least some of this illness is preventable. Concerned scientists are increasingly coming to regard cancer not solely as a medical condition but also as a social disease, requiring at least equal, if not greater, efforts toward prevention than toward finding cures. Unfortunately, with certain exceptions, the persons in a position to make decisions that would help to prevent cancer are not the same as those affected by cancer and other environmentally related diseases. This disparity is a problem when "cost-benefit analysis" is applied to the problem of toxic chemicals and human disease. For, when the problem is reduced to economics, those who profit are not the same as those who pay the cost, either economically or with their health and lives.

Among five continents, eight areas in the United States rank in the first ten areas having the highest incidence of cancer. In the first four of these ten areas, black males have the highest cancer rates, and three of these four areas are in the United States. Thus, if you are a black male living in the San Francisco Bay area, Alameda County, or Detroit, your chance of developing cancer is greater than that of any other person living in any other area except for an African living in Bulawayo, Rhodesia. Can it be that our black citizens are in truth fodder for our economic machinery?

Decisions to manufacture and distribute certain toxic chemicals, to place additives in food, and to control pollution emissions are not made by workers, community residents, or consumers. Indeed, most of us are exposed to toxic chemicals without our knowledge or

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**Health care for Americans may, at a conservative estimate, cost from \$150 billion to \$200 billion in 1980, up from \$30 billion in 1965.**

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consent. Of special note is the fact that many carcinogens are also mutagens and teratogens. The unborn invariably are affected without their consent.

In 1974, when Henry Falk reported the increased incidence of liver cancer in vinyl chloride workers, the U.S. was producing 4.4 billion pounds a year or 25% of the world production of that chemical. Vinyl chloride was at that time touted as "inert," and it was included in thousands of consumer products. Yet if this carcinogen had caused mainly lung cancer, rather than the rare liver angiosarcoma, the risk might never have been discovered.

Peter F. Infante's work, presented in March 1975, revealed a statistically significant increase in children born with congenital malformations in three communities where vinyl chloride was produced. Earlier work by him reported higher fetal death rates in wives of vinyl chloride workers. Allan Ducatman and Francisco Funes-Craio, in separate studies, showed chromosomal aberrations in vinyl chloride workers, supporting findings of congenital malformations and cancer in these families.

How are we to calculate the cost of these exposures?

To my knowledge, the cost of raising a malformed or retarded child has not been calculated in terms of direct medi-

cal costs and losses to family and community. In cases where the fetus perishes, of course the cost of caring for the child is averted. But the economic and emotional costs of the pregnancy remain uncalculated.

A "few" miscarriages and a "few" deformed or mentally retarded children melt into the background, as does a "slight" increase in lung or breast cancer. The effect of vinyl chloride, mixed in thousands of consumer products and spread over the entire population, cannot be measured. We can only point to evidence of increased cancer rates among beauticians and paint workers, who are routinely exposed to vinyl chloride.

Taking into account that vinyl chloride was used to power millions of cans of pesticides, many of which are themselves carcinogenic, how can we calculate the effect of these combined exposures? When people are routinely exposed to asbestos in the home, at school, and at work; to food dyes in cookies, cakes, and soft drinks; to saccharine in foods, tooth pastes, and mouth washes; to vinyl chloride in plastics and sprays; to solvents in marking pens; to benzene and dibromethylene in gasoline; to chromium and cadmium in paints; and to chlorinated pesticides, how can we pinpoint the effect of a single exposure? The list of chemicals to which we are exposed inadvertently and without our knowledge is almost limitless. Yet it is important to note that, of the 300,000 chemicals in our environment, 300 of them are known to cause cancer. Certainly, eliminating exposure to these 300 chemicals should not be an insurmountable task.

A National Cancer Institute study of patients hospitalized in private institutions for cancer care found costs of approximately \$90 per day for hospital charges alone. This estimate did not include charges for physicians; out-patient costs; charges for drugs, dressings, and appliances; charges for nursing and physical therapy; or the cost of custodial nursing home care. Each pa-

*People are routinely exposed to asbestos in the home, at school, and at work; to food dyes in cookies, cakes, and soft drinks; to saccharin in foods, tooth pastes, and mouth washes; to vinyl chloride in plastics and sprays; to solvents in marking pens; to benzene and dibromoethylene in gasoline; to chromium and cadmium in paints; and to chlorinated pesticides.*

tient required an average of 20 days of care.

Yet within two years of diagnosis, 45% of these patients had lost their lives. Contrary to the message given in many American Cancer Society advertisements, the survival rate for persons with cancers other than skin cancer has improved very little over the past 50 years. Seventy-seven percent of all lung cancer victims are dead within a year of diagnosis, and only 8% survive five years. Virtually 100% of persons with pancreatic and esophageal cancers are dead within a year of diagnosis.

A Social Security Bulletin for February 1976 showed a total expenditure for health care in 1975 of about \$120 billion, up from about \$30 billion in 1965 and up from about \$65 billion in 1970. Health care for Americans may, at a conservative estimate, cost from \$150 to \$200 billion by 1980. Given the latency period of from ten to 40 years from the time of exposure to a carcinogen and the expression of the disease, and given the increasing number of chemicals in the environment, we can expect the number of cancer victims and the cost of caring for these people also to increase. Clearly, the cost of health care will soon outstrip our ability to pay for it, unless we can take steps toward prevention of this disease.

Nor are the greatest losses suffered by person, family, and community the direct costs attributable to medical care. We must also consider loss of income, loss of future earnings, elimination of workers with skills and experience, costs of transportation to receive care, the burden of care to members of the family and the community, and finally death costs. These costs are borne not only by the person and family involved but also by the population at large in terms of higher insurance rates and increased costs of production, which are passed on to the consumer in the form of increased prices.

Attempts to conduct "cost-benefit analysis" of chemicals and chemically induced diseases are fraught with prob-

lems. For example, in 1974, at the time of the discovery of the carcinogenicity of vinyl chloride and the action by OSHA to lower the limit of exposure, the Society of the Plastics Industry commissioned the firm of A.D. Little to make a study of the economic impact of reducing ex-

**We can estimate a yearly health-care burden of more than one million sick citizens and nearly half a million deaths each year from cancer and other environmentally related diseases.**

posures. The study predicted widespread economic disaster and loss of millions of jobs. But this did not occur once the lower exposures were set.

On the other side of the equation we have questions such as: What values should be placed on human life, illness, and suffering? How should cases be judged when benefits accrue to some but risks accrue to others? How reliable are estimates of the cost of undertaking control measures, when these estimates are largely based on information supplied by the industry to be regulated? How accurately can regulatory agencies and industries assess the benefits to society that may result from continued manufacture of a given product? Is any product really necessary for a "better life," if it may ultimately make life intolerable or even impossible?

To a corporation, the cost of control measures will be taken out of profits unless production can be increased to compensate. The cost of eliminating a product is reflected in money already spent for research, development, production, advertising, and distribution, the cost of storing and/or disposing of stocks on hand, and the loss of potential profits.

But the costs to society of not eliminating a toxic substance are incalculable.

In the United States labor force, the corporate class represents about one percent of the population. The upper middle class of professionals and small business operators represents an additional 19%. This 20% of the population, in large measure, controls the health and destinies of the remaining 80%. It is no wonder then that blacks and the poor are those most affected by cancer and occupationally related diseases, and that it has taken so long for even the first steps toward remedying the situation to be taken.

Those with a say in their health and destiny are even fewer in other parts of the world, especially in "underdeveloped areas." We are witnessing the export of occupational diseases, notably cancer, to these areas, as health laws in the United States are strengthened. The push for corporate profits somehow makes it possible to manufacture and sell dangerous products, such as pesticides, asbestos products, and benzidine-based dyes, abroad, while restricting their use and manufacture within the United States.

Earlier in this century, individual rights and the rights of corporations were curtailed when widespread measures were instituted to control disease. By requiring control of sewage, water, and food quality and by mass programs of immunization and disease segregation, society made great strides in the area of public health. The situation is little different today. But instead of typhoid and tuberculosis we face the growing problem of cancer, occupationally related diseases, and birth defects.

The responsibility for public health lies not so much with the medical profession as it does with engineers, economists, politicians, and business people. All of us need to be reminded, however, of the message of Judge Miles Lord, who said, "It is a sin to kill in the name of profit. It is a sin to let people die rather than raise a fuss." For the word "sin," we could substitute "uneconomic." Either way, there will be an enormous bill to be paid.





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Mr. RYAN. Ms. Esther Marks, League of Women Voters. Anyone here to speak for the League of Women Voters?

Ms. EDGER. Ms. Marks told me that the San Francisco League does not intend to testify. I'm Elva Edger, from the bay area league.

Mr. RYAN. All right. Would you like to testify?

Ms. EDGAR. Perhaps I might give you some copies—

Mr. RYAN. Give your name to the reporter.

[Witness sworn.]

# STATEMENT OF ELVA EDGER, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE BAY AREA

Ms. EDGER. I am Elva Edger, speaking for the League of Women Voters of the Bay Area, which represents 23 local leagues with almost 5,000 members.

The league has both followed and been involved in formation of the environmental management plan. And we have participated in the efforts to acquaint local jurisdictions and individuals with the planning in its various stages. This is over at least a 2-year period.

The planning process has been successful in increasing awareness of concerns that transcend municipal boundaries, a good step toward beginning to make decisions that are in the regional interest.

Our recent letter to the California Air Resources Board briefly states our current evaluation of plan. And I would like to read a portion of it.

The League \* \* \* generally supported the December 1977 version of the Environmental Management Plan. However, this has been gradually weakened during the last six months through the successive actions of the various reviewing bodies by deletion from the Air Quality Management Plan of all regional land use controls. These were designed to limit costly urban sprawl and improve the balance of housing and jobs, to infill existing urbanized areas where sewer and water services already exist, and to reduce the number of vehicle miles traveled. These controls were not replaced with adequate alternatives. The Plan has also been weakened by delegation of most of the effective transportation controls that could discourage the use of the single occupant automobile, encourage and support public transit, and reduce vehicle emissions.

Most of these controls are controls that could be mainly implemented by local jurisdictions.

We are now concerned that the compromise strategies in the final Environmental Management Plan will not maintain clean air after 1985-87.

At this time, we support the Bay Area's Environmental Management Plan as a step forward in the State and National effort to achieve fishable, swimmable waters and clean air by 1982 or soon thereafter, and then to maintain them. But we support strengthening the Plan to accomplish these goals by:

(a) Reinstating effective transportation controls in the Environmental Management Plan.

And by:

(b) Providing for the restudying of possible land use measures by replacing them in the Continuing Planning Process section of the Environmental Management Plan.

The Clean Air Act Amendments require that all reasonable measures be taken, in good faith, to ensure compliance with national standards, in order to receive a time extension from 1981 to 1987 for attainment of clean air.

We believe that without the reinstatement in the plan of the two things we mentioned, this requirement has not been met.

Mr. RYAN. Well, thank you very much for your statement.



I note, is there any significance to the fact that the bay area chapter is here and not San Francisco?

Ms. EDGER. No. I don't think so. I talked with Ms. Marks and the San Francisco League was just checking to see whether or not it should speak.

Mr. RYAN. All right.

Ms. EDGER. The bay area league is actually a board, and the members are the members of the local leagues. And we have been in constant contact back and forth with the local leagues.

Mr. RYAN. Well, in view of the hour, I think Ms. Edger, I don't have too many more questions. I appreciate your comments. And, they'll be, of course, part of the record.

I note the support of issues over the years that I've been in politics in the bay area. And the thorough analysis done by the League of Women Voters is probably like no other group, public or private, in analyzing issues, and providing some kind of guidance to the public. And I think that the work that you and your colleagues do is extremely important to public affairs.

Mr. Cunningham?

Mr. CUNNINGHAM. I have no questions.

Mr. RYAN. Well, thank you for coming.

Ms. EDGER. Thank you.

Mr. RYAN. If I may, just in closing this first day, I'd like to express my own concern that our efforts to reshape our environment are so fractured. I express public disappointment at the failure of the Federal Government itself, to provide positive leadership to people, instead of telling them what they can't do; and what they must do, in the way of spending more money.

I still believe that if the Department of Transportation and HUD were to get into the act, there wouldn't be any need for EPA. I don't think people have just set out to destroy, or to disturb, their environment. They did it because Federal policies made it possible, encouraged them to do so. Federal policies now attempt to punish people. I guess this is where I disagree with your comment, Ms. Edger, about the single-person automobile.

The single-occupant automobile is a kind of freedom, a privacy. It's a personal statement, and a capacity to remain free of the intrusions of others in the course of doing his job, and living his or her own life. There is nothing wrong with it at all, except that it tends to pollute.

I would far rather see that same person with a single-occupant automobile riding vertically from the 87th floor of the John Hancock Tower down to his job on the 11th floor, thereby getting rid of all the objectionable things we talk about. And in the process of which, in constructing the John Hancock Tower, we produce a sewage plant that could handle it down to tertiary treatment. We take care of all the other problems and the objections we have, and we still leave the man, or the woman, her privacy.

The regulations we create are because of, I think, a narrow kind of thinking. Sheik Ahmed Zaki Yamani, who is the oil minister for Saudi Arabia, told me in January in Riyadh that by the mid-1980's people in the United States would be standing in gasoline lines again,

because they did not intend to increase their production to feed our insatiable appetite for more oil. And I don't doubt him a bit.

So that by the mid-1980's one of the effects will be, if we are beginning to be choked by not having enough oil, that the problem of air pollution will take care of itself. There simply won't be that much more to blow out the gas pipes. In the meantime, what kind of planning have we done, or are beginning to do now, to make that kind of terrible crunch unnecessary.

I guess that I wish the league could step beyond the immediate, as the Government cannot and be providing more direction for us, more suggestions, as they have so often in the past on where we might go from here.

Ms. EDGER. Could I add a few words—

Mr. RYAN. Sure. Of course you can.

Ms. EDGER [continuing]. That is not in my proper statement. First of all, as you probably know, the league has always supported the EPA standards, and EPA as an organization, or as a Government agency.

As Ms. Weinreb said in her statement, the regional level already exists. And, the bay area league, since 1965 has supported regional decisions being made in a multipurpose regional agency by directly elected representatives.

These are sentences as they were written down here.

Local jurisdictions do not yet see regional planning as, perhaps, another aspect of local planning. Jobs will be created in meeting standards. There is, however, a dislocation for people and for the money channels during changeover. Public education will be a key element in implementing this plan. If it's adopted, it will never be implemented unless people want to implement it.

And, just the last word, during the past 2 years the bay area league has put on a league program, "Clean Air the Impossible Dream," and a conference on the EMP which was very well attended by both league and by various government jurisdictions and individuals—"Jobs in the Environment." No, that one was, "Who Decides? Who Pays?" The next one coming up, we hope, will be on jobs and the environment. So, we are trying to look, think, and plan ahead.

Mr. RYAN. Thank you very much.

That concludes the hearing for today. We will reconvene the hearing tomorrow morning at 10, in this room. The subcommittee is adjourned.

[Whereupon, at 4:37 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Saturday, June 24, 1978.]



## ENVIRONMENTAL MANAGEMENT PLAN— SAN FRANCISCO

SATURDAY, JUNE 24, 1978

HOUSE OF REPRESENTATIVES,  
ENVIRONMENT, ENERGY,  
AND NATURAL RESOURCES SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*San Francisco, Calif.*

The subcommittee met, pursuant to notice, at 10 a.m., in courtroom No. 12, Federal Office Building and Court House, San Francisco, Calif., Hon. Leo J. Ryan (chairman of the subcommittee) presiding.

Present: Representatives Leo J. Ryan and John E. (Jack) Cunningham.

Also present: Norman G. Cornish, staff director; David A. Schuenke, counsel; Dan Cook, chief investigator; and Thomas G. Morr, minority professional staff, Committee on Government Operations.

MR. RYAN. The subcommittee meeting will come to order. This is the second day of hearings on the question of the environmental management plan for the San Francisco Bay area which has been put together by the Association of Bay Area Governments, otherwise known as ABAG.

This hearing is the first—that is, this hearing is to examine into what has been done so far to develop an environmental management plan, because it is the first in the country to reach this point where some specific action is taken which will then, in turn, trigger other actions by statements made about the Federal Government to clean up the air and the water in concurring with, or following, the legislation passed in recent years on the Federal Water Pollution Control Act and the Clean Air Act.

The chief concern that we have has to do with the degree to which local government participates in, and in effect controls, the development of a plan. I think it's unfortunate that it's possible under this plan for Federal and State officials to completely dominate, and in effect, dictate how local governments will act.

I think that that kind of legislation is extremely unhealthy and sets an extremely unhealthy precedent, and as a consequence, this hearing is to examine the matter for, not just the San Francisco Bay area, but for other metropolitan regions including the Sacramento area, the Los Angeles area, the San Diego area, and on a national basis, anywhere in the country where we have these management plans being developed according to the law.

It may very well be that there is a need for further legislation to limit—to define the limits of the Federal and State roles, because it is certainly not the intent of the legislation, as I read the congressional intent, to take away from local government any of its powers, any of its prerogatives. In fact, the Federal and State governments' powers are simply to encourage—to nudge if you will—the local governments into working together to produce their own particularly tailored plan which fits their need. That's why we are here, to see what the problems are, to see what might be done to make the laws better, and to define to State and Federal officials what may have been congressional intent when the legislation was passed.

Our first witness is Mr. Mark Pisano, the executive director of the Southern California Association of Governments (SCAG). It is normal in proceedings of this kind for the Committee on Government Operations, which is an investigative committee and subcommittees, to swear in witnesses who testify before the committee. So, for those of you who aren't aware of the practice, I'll give you that notice now.

[Witness sworn.]

Mr. RYAN. Would you give your name for the record?

#### STATEMENT OF MARK PISANO, EXECUTIVE DIRECTOR, SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

Mr. PISANO. My name is Mark Pisano, the executive director of the Southern California Association of Governments. Mr. Chairman, and members of the committee, I want to thank you for the opportunity to testify before you today on items of great interest to our region. That region is the six-county area of southern California including Ventura, Los Angeles, Orange, Riverside, San Bernardino, and Imperial Counties. Our association includes 136 cities. We cover 38,000 square miles, and there's a population of over 10 million people for whom we perform the transportation, air quality, water quality, growth management, and housing planning.

The major theme of my remarks today is the overriding importance of the involvement of local elected officials in the policy formulation and implementation phases of our transportation, housing, and environmental programs which are directed by Federal laws and resources. If local government is not given the opportunity to participate in policy development and implementation strategies, then Federal programs in these areas can never achieve their full potential. Successful local involvement includes a vested interest in the implementation of a plan that best meets local as well as national needs. There must be a recognition of both types of needs. If regional, State, or Federal mandates fail to include local involvement, implementation will be resisted, if for no other reason than the lack of a local constituency.

I'd like to describe today how we are developing that local involvement, while at the same time recognizing the overriding national policies under which we operate. One important point is that any resources that come to the association are only partially expended by our organization; in the case of the Federal aid program, for example, 75 percent of the funding was allocated to the member agencies through our subregions participating in the planning proc-



ess. Therefore, they are doing much of the work. They are preparing a great deal of the plan or plans which we'll be adopting.

Our goal is the establishment of a process whereby all the local governments in our region—and as I mentioned there are a large number of them, making the task extraordinarily complex—can participate in a regional decisionmaking process. One aspect is the establishment of a committee process. Our association has a citizens committee whereby all of the interest groups involved in our environmental management program can participate. We have, in addition, what we call a program committee. There are many implementing agencies that are going to need to participate in the development of the plan as well as the implementation of that plan. They sit on what is called a program committee and they are involved in the management of the 208 program.

There is also a policy committee, which is composed solely of elected officials. It is at the policy committee level that the trade-offs between air quality, water quality, transportation, and growth management are made. That policy committee gives its general recommendations to the executive committee of the association.

Another critical element in the development of our plan and the adoption of the plan will be the method through which it will be adopted. We've established a mechanism whereby the plan will be reviewed at least twice, and in some cases three times by all of the affected jurisdictions in our region. Ultimately, the plan will be approved by those jurisdictions before its adoption by our executive committee. In that review and approval process, in the event that there are any basic and fundamental disagreements with the plan, we've established an appeals process whereby those disagreements can be reviewed by our policy committee before recommendations are made to the executive committee. At that point, efforts to negotiate are undertaken; the differences will be resolved, and if they can't be resolved those differences will be brought forward to the executive committee. So, at the time the executive committee adopts a plan, it will be reviewing a plan that first has been in large part prepared by local governments, our members; second, a plan that's been reviewed and approved by them; third, any disagreement that affected parties might have with the plan will have gone through a conflict resolution process. At that point in time, it's our expectation that the executive committee will have the best reading of what's achievable in our region from the point of view of how it will affect our members, while at the same time recognizing the policy guidelines and objectives that the Federal and State governments, have set out.

The process that EPA has established in their water quality management process, we feel, does provide an excellent opportunity to have the local, State, and Federal partnership developed in the adoption of the plan. And, it is upon this last point that I'd like to describe one other element which has been developed by the region 9 office. It's called the program review board. As we go through the preparation and the adoption of our plan, we, on a monthly basis, sit with the State agencies involved—the air resources board, the water quality control board, and the office of planning and research—

as well as the Federal agencies involved—mainly EPA, but there are also Department of Transportation officials that sit on this board—reviewing the progress of our plan, providing us comments and inputs. And, it's my expectation and the expectation of our executive committee that at the time our plan is adopted, we will have the full benefit of the State and Federal viewpoints. If we do not have the full extent of those viewpoints and if we adopt a plan in conflict with Federal and State policies—which I don't expect to happen—in many respects I think it would politically be very difficult for us to maintain or implement that plan at the local level. So, it's just as important to have the Federal and State input into our adoption proceedings as it is to have the inputs of our local members.

Not all of the programs and policies under which we operate have the same sensitivity to local involvement as do the 208 and the air quality process, and I'd like to mention just a few of those. EPA has what we think is an excellent record through its promulgation of a set of regulations on April 25, 1978, which establish population projections for sizing of treatment facilities. These population projections are developed by the Department of Commerce—the Bureau of Economic Analysis to be specific. They are provided to States who are then directed to use these population projections in a disaggregated way to size sewage-treatment facilities. The utilization of those population projections, given the effect they have on the sizing of treatment facilities, is tantamount to overriding any of the policy considerations that might come up through a water quality management process. We are fortunate in this region that EPA region 9 has established that the 208 population projections will be the overriding policy projections, and not the BEA statistics. That is not the case across the country, and in many instances we have situations where Federal population projections are determining local land use and growth policies. In our view, that constitutes a direct involvement of the Federal Government in what is essentially a local prerogative. The Department of Energy in the establishment of its State conservation and energy management program likewise is not recognizing the role of local policy and input into establishment of energy conservation programs. The recent regulations that are being drafted by the Department say that the State government needs only to consider existing local planning, but those regulations do not establish a process where local planning and policymaking can be involved in the establishment of our national energy conservation and development programs.

The final issue that I'd like to address is that of resources—specifically the impact of proposition 13 on our local programs. The impact definitely will be felt in our programs. There will be a lack of local revenues and resources. There's also the question of how we can meet many of the environmental constraints that are set out in law. One of the options is to come up with more State resources; in the same election where proposition 13 was passed, proposition 2 likewise was passed, which could provide for more local resources. There's also the issue of Federal resources, and the allocation of an equitable share of Federal resources to the State of California. There have been recent requests from the State, and there have also been recent comments from the Federal Government concerning the fiscal relationship of both entities.



Our analysis of the amount of Federal resources going to our environmental and transportation programs indicates that at least our region and our State are not getting an equivalent fair share of resources allocated across the Nation. For example, in the area of transportation we received 38 cents back on all gas tax dollars paid. In the area of the clean water program, we received about 7.3 percent of the Nation's clean water grants, and we have a population of 10 million. The point that I'd like to make, Mr. Chairman, is that if equity were involved in the allocation of Federal resources, it would go a long way toward helping to meet the needs of our area and the requirements that we face under Federal and State law. Thank you Mr. Chairman.

Mr. RYAN. Thank you for your informative statement. The first question I have has to do with the—on page 5 of your testimony, where you refer to EPA promulgating regulations which gives the Federal Government the authority to set local population projections for the sizing of sewage treatment facilities. Aside from that action itself, how far can the Department of Energy, or EPA, or Transportation, or anyone, in simply declaring a regulation and then moving in and taking over and simply taking it away from local government? Are there limitations as you see it? Are you concerned about that?

Mr. PISANO. Mr. Chairman, as I expressed in my comments, we are concerned with it. Local government is very much concerned with that possibility.

Mr. RYAN. Do you mean additional legislation?

Mr. PISANO. In that particular area of the sizing of sewage treatment facilities, the current statute indicates that the section 208, water quality management process, shall produce the population projections and the priorities for the construction of sewage treatment works. In my view and also in the view of our policymakers, that process provides ample opportunity for our involvement. In another section of the statute, section 212 to be specific, it is mandated that there be a cost-effective determination of the sizing of treatment facilities and that EPA shall promulgate regulations specifying how they will be sized and what population projections shall be used. Those two sections provide a definite potential conflict, and that is a conflict we see arising with the promulgation of EPA's population projection regulations. And furthermore, in the regulations dealing with population projections under 212, the only statement that deals with 208 is that States are directed to take into consideration 208 population projections. They are not required to take into consideration the population projections. We see that as a basic contradiction in two of EPA's regulations. And it's also a contradiction that could have severe policy and political implications for the Federal agency.

As I said, we're pleased that in our region the program is being implemented in a reasonable way. That is not the case, however, nationwide. Recently the executive committee of the National Association of Regional Councils established a policy position that they were going to appeal to EPA, OMB, the White House, and Congress to have those regulations reviewed and changed.

Mr. RYAN. What it comes down to is whether it is the requirement of the local governments to read the Federal law and act themselves, or whether the Federal agencies are to read the law and do it themselves for the local government.

My own understanding of the law is that local government is to take action, not the Federal agencies. If there is need to call attention to the fact that the local governments are not proceeding according to legislations' intent, that's one thing, but I think that there is a distinction here which is perhaps subtle from a distance, but up close for those who are involved in local government.

It can become terribly oppressive, and I think there ought to be some kind of mechanism in here and some kind of comment in the law about the necessity for the local government being required to follow the law itself and read the law. A city attorney can read the law as well as a counsel for the Department of Energy. I presume that's clear, but apparently from what you say and from what I've heard others say here in the bay area, that needs to be further defined. Would you agree with that?

Mr. PISANO. Yes, I would, particularly in the instance of the population projection. In land use, the size of communities and the limits of communities must be established at the local level. It's almost impossible—I won't say it can't be done, but it's almost impossible—for that to occur as a direct result of a Federal or a State dictate.

Mr. RYAN. Now would you say that that policy's been followed generally in the case of southern California?

Mr. PISANO. We feel that we have an ample opportunity through our 208 planning processes to present a plan for the State and Federal Government, and that the process that has been established in region 9 in the State of California gives us an opportunity to determine the best growth plan for our region considering State and Federal mandates. But, at the same time in other regions of the country, such as Atlanta and certain areas of Ohio. The local governments are having a very difficult time relating to their State governments in the context of the sizing regulation dealing with treatment plants. The State governments and the EPA regional offices are not recognizing local involvement and the local-State-Federal decisionmaking aspect of the 208 process; for that reason, the National Association of Regional Councils adopted the policy position that I mentioned. I think it is an item that does need to be clarified and probably needs to be clarified legislatively.

Mr. RYAN. OK. One last question. Do you believe that the members of the various city councils and so on, elected officials, are keeping themselves informed about the options and decisions that have to be made?

Mr. PISANO. In our process?

Mr. RYAN. Not the ones you go to the meetings with every month, but the ones you don't.

Mr. PISANO. We've established the process whereby they will be informed of the decisions. As I mentioned, our plan will be going to virtually every city council and every county board in our region for their review and approval before the executive committee adopts it. That's an extremely difficult and time-consuming process in a region that is as complex, diverse and large as ours. We've established a mechanism whereby they can be involved. It would be an overstatement if I indicated that all of our elected officials will fully understand all the implications of the plan. But the pressures and the time constraints on local elected officials preclude in some instances a complex and difficult issue being fully understood.



Mr. RYAN. I just wonder what the quality of the communication is, because I guess I'm curious to know whether or not the various city councils here in the bay area kept themselves well informed on the development of these processes to the point where it was adopted, the action was taken by the environmental planning group in adopting the plan?

Mr. PISANO. Mr. Chairman, I can't speak for the bay area, but I will say that we have undertaken a process that's going to provide the opportunity, and because there must be an approval of the plan, it will also provide some assurance that there will be a local signoff. I think to date it's been probably one of the most extensive cooperative efforts of developing, reviewing and approving a regional plan that's been undertaken in our region. To that extent, the EPA "regs," programs, and resources which have provided us the opportunity to do this need to be complimented. We feel that we have a real opportunity to develop a growth management, a water quality, an air quality, and a transportation plan that will meet Federal and State needs. Our only concern relates to the resource implications that have been brought about by recent events. On that score, we do request, not a handout from the Federal Government, but an equity from the Federal Government in the allocation of resources.

Mr. RYAN. I find your figure of 7.3 percent versus 15.7 percent from New York very interesting. I think I'll use that when my friends from New York come around for more help on the bailing out of New York City.

Mr. PISANO. Mr. Chairman, we have prepared a more detailed analysis of all Federal programs dealing with energy, environment and transportation, in terms of resources allocated to other portions of the country and to our region, and could provide that to you if it would be of interest.

Mr. RYAN. Thank you very much for your appearance here. We appreciate it.

Mr. PISANO. Thank you Mr. Chairman. On behalf of our elected officials, again, we appreciate the opportunity to bring the interests and comments of local government to the Federal Government.

Mr. RYAN. We hate to bring you out on a Saturday, but we missed a day of session yesterday as it is, and this is the only way we can get it done.

Do we have Mr. John Bryson here?

[Witness sworn.]

#### STATEMENT OF PETER A. ROGERS, CHIEF, DIVISION OF PLANNING AND RESEARCH, CALIFORNIA STATE WATER RESOURCE CONTROL BOARD

Mr. ROGERS. Mr. Chairman, my name is Peter A. Rogers, and I'm representing John Bryson, and I'm chief of the division of planning and research for the California State Water Resource Control Board. I didn't come prepared with any prepared statement other than to respond to the three questions which the committee posed to us in their letter to Mr. Bryson, and I'll respond to those three questions and anything else that you might want to add.

The first question you asked us was basically: What is the State's

role in this designated 208 area plan? The State water resource control board acting for the Governor is responsible for administering section 208 of Public Law 92-500 in California. So far, the board has designated seven 208 areas and agencies in California, and is responsible for doing the planning in the rest of the State which is not designated, and the board is also responsible for final certification and adoption of the 208 plans which will be developed by the 208 agencies. Most of this activity has been going on for the past 2 years, and these plans are starting to be completed. Over the next 3 months, to give you an example of what the activities we will have, we've received 208 plans so far from the Tahoe Regional Planning Agency, Ventura Regional Sanitation District, the Comprehensive Planning Organization of San Diego, ABAG, and we will shortly receive one from the Association of Monterey Bay Area Governments.

For each of these plans the board has scheduled a special workshop, a public hearing, and will make a decision on these plans at a board meeting. With regard to ABAG's environmental management plan, the board held a special workshop on June 12, and we've scheduled a public hearing, July 24, in Sacramento. We expect to make a final decision on the ABAG plan at the August 21 board meeting. I should point out that the board in taking its action on ABAG's environmental management plan will restrict its considerations to the water quality elements of that plan; we will not be considering the air quality or the solid waste aspects.

In taking action on these 208 plans, the Federal regulation basically gives a State three choices. One is, we can adopt and certify the plan as the State's water quality management plan for that area, second, we can conditionally certify the plan, meaning we can remand it back to ABAG and ask that certain things be done within a given time-frame, or the third choice, we can basically reject the plan. If the board rejects the plan, then the State is responsible for doing the 208 planning in that area.

Your second question that was posed was that, do we believe more or less that the ABAG approach was a good one that perhaps should be followed by other communities. I would say that ABAG in their process developed and prepared an integrated environmental management plan that considered all of the interface areas between water quality, air quality, land use, and solid waste. It was prepared, as you're aware, under the direction of an advisory body which was composed of locally elected officials and special interest groups called the environmental management task force. This group constituted a rather highly visible public forum, and provided the basis for the public participation program in guiding this process.

We support the concept of integrated planning in theory, however, we are not convinced that the approach is feasible considering present institutional arrangements. Furthermore, results from ABAG's planning efforts indicate that the interfaces between water quality, air quality, solid waste, and land use, may not be as significant as once believed. We have viewed 208 planning in designated areas, basically as an untested process, where local governments have the opportunity to influence, in a rather direct way, environmental decisionmaking. The State water resource control board following the workshops and public hearings that I mentioned over the next 3 months, will have to



make, in essence, a judgment as to whether this type of approach works in California, and we have not yet made that judgment.

The last question which you asked us to respond to is our opinion as to what we thought the impact of proposition 13 might be on implementation of the ABAG plan. According to ABAG's staff, implementation of the environmental management plan would cost local government about \$350,000. When the ABAG plan was acted upon by their general assembly, this was after proposition 13 was passed, the general assembly adopted the plan, but they did insert the following disclaimer, and I quote: "The cities and counties of this association, because of the impact of proposition 13, reserve the right to postpone implementing any provisions in the environmental management plan involving additional local expenditure." It's pretty clear, I would think, that from that, that proposition 13 will definitely have an adverse impact on implementation of, not only this plan, but other 208 plans throughout the State. Probably of greater concern to us is the fact that local governments in general, now appear to be cutting back on services which affect nonpoint sources of pollution such as the frequency of streetsweepings, enforcement of local erosion control ordinances, and things of that nature. And these are probably the most effective things we have in California in preventing this type of a pollution. We hate to see that, because abandonment of these services by local government may very well bring on regulatory actions from the State level, and I think that would be unfortunate.

That was the extent of the prepared comments we wanted to make in response to the questions you posed, but if there's anything additional, I'd be glad to try to respond.

Mr. RYAN. Perhaps I overreact, but I never got over being a city councilman and the mayor of a small town called South San Francisco, and I've never lost the determination to resist the effort of benign-intentioned people at State and Federal level, telling the local folks what they will do without sufficient involvement by local people. That's the reason for these hearings. You said that local government has an opportunity to influence water quality planning. Would you expand on that a little bit?

Mr. ROGERS. The concept under which 208 was established in this State was that the thought being that local elected officials, by participating in the process, would in essence develop what you might call an environmental conscience, and do what would be the right thing to do to abate pollution, and that was really the whole idea behind 208, and I think—

Mr. RYAN. You determined what is the right thing to do?

Mr. ROGERS. Well, that would be determined by your local elected officials. That was the idea, that they in working with the State, and other agencies, would identify the problems and determine what the best solutions could be to those problems, given the practicality of economics and social impacts, and so forth. In concept it's an excellent theory. There's no question that this is an ideal way to operate. I think the experience we've seen, however, is that it's difficult, particularly in view of say proposition 13, for a local official to adopt actions which indeed are going to cost them perhaps money. I think the ABAG process, the way it was set up, is probably the best one that we've seen

involving local officials, and I think it was an excellent process. It was well involved by local officials.

Mr. RYAN. You said that the abandonment of some local services such as street cleaning, might lead to some kind of State activity. Could you go into that a little further?

Mr. ROGERS. It's possible. In other words, in talking about nonpoint sources of pollution, some of the best means of dealing with that problem have been the things that local governments have been doing already, and that is such things as streetsweepings, particularly local ordinances involving erosion control; these have been very effective. I think it would be difficult for the State, even though they would have the authority, to try to step in and conduct those kinds of programs or impose individual requirements on developments for erosion control and that kind of a thing, but as local governments see the need to cut back on various services under proposition 13, a problem is created, meaning a pollution problem, it is conceivable that the State might have to consider at least stepping in and taking some action to prevent that problem from becoming severe.

Mr. RYAN. So what you're saying is that local city councils decide to implement proposition 13 in a way which you don't see particularly satisfactory, and you would step in and reverse the decision?

Mr. ROGERS. No, I wouldn't say necessarily; that's a possibility. The State law requires us, meaning our board, to take certain actions, and I think that would have to be weighed, what impact would that have, how great is the consequence of not conducting these programs, and so on and so forth. I think the board would have to consider that, and like I said, I think it would be unfortunate if the State had to get into that kind of a posture, because I think that's really something that's appropriate for local government to be doing, and we'd hope it would continue.

Mr. RYAN. Well, I would certainly urge you to step very cautiously there, because I would hate to see the local governments in California stirred to the level of wrath that the citizens expressed when they passed proposition 13.

They might very well blow you out of the water, as well as did proposition 13. I think we have some legislation here which is necessary in the seventies to improve the quality of our environment, but I think one of the lessons we're developing is that those who have been given authority at the State and Federal level to carry out and implement congressional intent need to step very, very carefully. Or Mr. Jarvis may decide he's not finished his work.

Mr. ROGERS. I couldn't disagree at all. In fact, our board is already identifying things that it's doing now, that have financial impact on local governments with the idea of how can we lessen that, so they're certainly aware of that.

Mr. RYAN. Mr. Cunningham?

Mr. CUNNINGHAM. No questions.

Mr. RYAN. Thank you very much for being here.

Dr. Marjorie Evans, the member of the air resources board.

[Witness sworn.]

Mr. RYAN. Thank you for coming on a Saturday.



## STATEMENT OF MARJORIE EVANS, MEMBER, AIR RESOURCES BOARD

Ms. EVANS. Thank you, Congressman. It's a great pleasure to be here. I'm appearing as one member of a board. The State board, as I'm sure Congressman Ryan knows, is designated in the health and safety code of the State of California as an air pollution control agency for all purposes set forth in Federal law. And specifically, it's designated as the State agency responsible for the preparation of State implementation plans required by the Clean Air Act.

I'm here at your invitation to give ARB's view of the bay area environmental management plan. First, this gives me an opportunity to pay tribute to the people who created the plan, a sophisticated and comprehensive plan, a simply amazing piece of work in my view. The Federal policy changed midstream in the work of the plan, but nevertheless, I find it surprisingly consistent with the Clean Air Act amendments. I expect the air resources board, and I believe it's the expectation of my fellow board members, to submit to the U.S. Environmental Protection Agency in 1979, a plan for the bay area which provides for compliance with the Clean Air Act, and is acceptable to the citizens of the area. Now, this plan has not yet been submitted to the air resources board, so it is improper to comment in detail prior to the staff analysis which will be undertaken on its submission to the ARB. However, the ARB staff has worked over these many months and is now working with ABAG in the environmental management task force, and is familiar with the plan and its working out. I have discussed the plan and its status with the staff, and I can comment on some aspects of it.

Some changes and additions to the plan as it is or was a week or two ago will probably be required. First, it is not complete in that it deals with oxidant only, because that was the intention and expectation of this group when it began. There is a need in this basin for a carbon monoxide and a particulate material plan, and I'm told today that ABAG is working on that now, and that we can expect that to come to the staff some time in the fall. The oxidant plan, I believe, is expected sometime within a month. On the oxidant plan as with CO and particulates, the ARB staff is working with the MTF staff, making suggestions that presumably will bring it to a state which will be satisfactory to the air resources board so that it can be certified to the EPA. Second, it may not meet the Clean Air Act requirements for enforceability. The Environmental Protection Agency makes the final decision on this, but the staff believes, and I share their belief, that regulations where possible, should be adopted and included in the plan before it is submitted to us.

Third, there may not be sufficient controls for oxides of nitrogen to allow the downwind basins to attain and maintain their air quality standards. Specifically, I mean Monterey, San Joaquin Valley, and Sacramento Valley. Fourth, the plan may not contain sufficient controls to demonstrate maintenance of the standards after 1987. It does propose a 50-percent hydrocarbon reduction, and the staff at this time thinks that can be attained.

The staff, despite the fact that we think there are not sufficient controls demonstrated, at present believes that very recent work on available controls on stationary sources, work that was not available at the time the plan was put together, make the plan in its present stage conservative. There is ongoing work by the air resources board to provide model rules to the various districts and areas in the State, to make available the proposed reasonable controls. If the staff is correct, namely that the estimates made in the plan are conservative, then it will likely mean that taking into account the vehicular controls, the plan will be able to comply with the Clean Air Act without the inclusion of land use and transportation improvements and controls. This, of course, would make many people in the bay area happy, particularly with respect to land use and transportation controls.

Finally as to possible deficiencies of the plan, it may not contain adequate documentation that the various transportation techniques which are set forth in the act as being necessary to consider have been examined for reasonableness for application, nor as I understand it, is there a commitment to study them during the 1979-82 period. Under those circumstances, presumably EPA will find it difficult to justify the extension which this basin needs for oxidant and carbon monoxide beyond 1982. In particular, and of particular interest to me, the plan lacks a commitment necessary for the extension improvement and expansion of public transit, and it lacks the required commitment to use funds for such expansion from Federal, State, and local sources.

Now, from this point on, and in response to your request for comment on proposition 13, what I say represents solely my own views, and not necessarily those of my fellow board members. The Clean Air Act amendments, which reflect my own preference, call for the plan preparation and the selection of techniques for reducing pollution to be done at the local level. If a locally developed plan meets the requirements of the law, I can't imagine that the board on which I serve would substitute its own choices.

Second, I come to an issue which involves the Federal Government, specifically, Federal taxation, and the Federal system of matching grants to which we have become so accustomed. One of the available choices to the bay area for reducing oxidant and carbon monoxide would be the improvement of the transportation plan, making an integrated system which would tie together various parts which are seven or eight in number. They include Muni, BART, Southern Pacific commuter line between San Jose and San Francisco, Santa Clara Transit, Samtrans, and so forth. This is a very fragmented system and we desperately need an integration of it with appropriate interconnections, and the expansion of services to late night, and weekends, and holidays. This sort of thing is available as an option to the bay area for its air quality maintenance plan. It would not only greatly strengthen the AQMP, and I particularly point out, relieve some of the pressure on the stationary sources—the oil companies, and public utilities, and others—to reduce their pollution, but it would also improve the general livability of the area, quite irrespective of air quality.

It is called for in the act. It is desired by the people. It would add jobs in constructing interconnections. It would add operator jobs and it would take some of the pressure off the stationary sources. It is



presently included in the plan only in a very attenuated way, and I think it's appropriate for me and for you to ask why this is so, given all of the good things in favor of it.

I propose to you the answer, and the answer relates to proposition 13. The middle class of which there were a goodly number of representatives, both in that EMTF and in the various towns and counties which looked at the plan and voted on it, feel besieged. They feel besieged not just by the property tax, but by income taxes, both State and Federal, and especially in my opinion, the Federal income tax. They perceived, correctly, that putting a transportation improvement plan in the SIP would result in the increase of taxes, probably income taxes either State or Federal or both, and they simply weren't going to put up with it. Moreover, I suspect they felt that if it were put into the plan, the design would probably be federally controlled. Now I, much as I want the bay area to have an expanded and improved public transportation system, am not inclined to expose Californians to the frequently capricious and irrational results of a federally mandated transit expansion.

We need the system. We need to build it with our own money and on our own terms. So in closing, if I can hope to give you a special sense of purpose as you go back to Washington, it would be this. I urge that Congress begin the task of making massive Federal income tax reductions. Speaking for Californians as a Californian, we need the money here in California to do things that need to be done as we see the need, and among those things and high on the list is a good public transit system in this area, in Los Angeles and in the Sacramento area.

It would assist in all the tasks of decreasing the air pollution. It would make the bay area an even more delightful place to live in. Thank you for your time.

Mr. RYAN. Thank you for your comments. I don't understand your reasoning. Let's take this whole business of public transit as a solution to the problems of air quality control. The assumption is the basic reason for air quality problems is the automobile and the emissions thereof, and therefore, the best thing to do is to get people out of their automobiles and into public transit by expanding public transit as an alternative in environmental management planning. What evidence do you have that after you've built it, they'd ride it?

Ms. EVANS. Well one can always take refuge in the proposition that no one will use it. SP for example, raised that question when they went to have their commuter service discontinued. I take this position. The service in the bay area has never been very good. It is truly fragmented. It is very difficult to get from one end to the other. When you have a good system as you do in various cities throughout the world, people use it. They use good systems. In the bay area they use the AC system which is good in a small portion of the—

Mr. RYAN. I know San Mateo County better than the rest of the bay area, but in San Mateo County, it seems like 20 or 30 percent of the families in San Mateo County have three cars, not one or two, but three.

Ms. EVANS. That's right.

Mr. RYAN. You think they're going to begin getting rid of their cars and walking to the station or to the BART?

Ms. EVANS. No, I think they will use the commuter system at a time when I consider it appropriate to use it; namely, for routine trips. The approach of punitive controls—

Mr. RYAN. Do you think it's the commuter problem that's causing the pollution?

Ms. EVANS. Yes. I think that punitive controls which forbid people to use their cars on Saturdays or on holidays the way we had during the gas rationing, I abhor that. People hate it. It's more important that they use—

Mr. RYAN. We all find ourselves out in the street and we find a new set of people elected to make the decisions, I'll tell you that. I think if we did that, we'd find a new set of politicians in office to take care of the problem and undo it.

Ms. EVANS. So do I, but it is continually proposed. People would not find it objectionable, in fact, would find it very nice to have an alternative good transportation system which they could take when they were going on routine trips from point A to point B, and then have their car without punitive measures available for things where flexibility is needed.

Mr. RYAN. What happens if you build this system and then nobody comes, if I can borrow the phrase?

Ms. EVANS. Well, I suppose we can always say that it may not work, but if we do that, we do nothing.

Mr. RYAN. You're talking about the investment of substantial capital funds to build an enormous transportation system around the San Francisco Bay area that has among its other peculiar facilities, which are very nice to look at, a bay, a body of water smack in the middle that you've got to go around.

Ms. EVANS. I'm not talking about building a new system. I'm talking about making linkages with systems that already exist, and increasing service. By way of example, we have Southern Pacific which is a good commuter railroad. Its service needs to be increased, but everybody who rides it likes it. But can you get from SP to BART? You can by a long route involving San Francisco's Muni buses. There is a clear opportunity for an integration of existing pieces, without asking for new pieces. Samtrans, Santa Clara County Transit, and others exist as pieces. We need to think of all of them together as a transportation system.

Mr. RYAN. Has your board ever considered the possibility of anything other than simply bilking the public? This idea of public transit as an answer to air pollution is an interesting one, based upon its assumption that people will use it. I still have very serious questions about this. What about going in a different direction?

Have you ever considered such a thing as developing tax benefits, in which the State or the Federal Government might develop special kinds of incentives for building in the central city? Let's say penalties would be imposed for construction of industries where there are no residential facilities within a reasonable distance so we get people out of the need for cars. San Francisco International Airport still has hundreds of buses that arrive every morning from as far away as Santa Clara County depositing workers down there.



That's their commute. And they do it because it's cheaper to live in housing in Santa Clara County than it is around the airport. Has the board ever considered that as an alternative?

Ms. EVANS. That's an interesting thing to discuss. Let me preliminarily pick up a couple of things. I didn't mean to imply that a transit system is an answer to air pollution, because it's not. Improved public transportation is one of several alternatives, but additional options that can help relieve the pollution reduction load on the stationary sources. It's by no means a panacea. Second, remember that I don't speak for the board, I speak for Marjorie Evans right now.

Addressing your comments, in the end of course, that's the real problem. How to address land use is perhaps the most emotional question of the bay area. I think myself that sooner or later the so-called land-use question must be addressed.

I don't like the way it was addressed in the plan as set forth in the beginning. It seemed a rigid and sterile plan. Something like what you suggest has much more flexibility and attractiveness. I suspect that when an attractive and not rigid and sterile plan for land-use control can be offered to the people, they'll go for it.

Mr. RYAN. I think there is a difference between ordering it and providing incentives. If you order people to do things they don't want to do, you're going to get nothing but trouble, and we're going to get nothing but trouble.

On the other hand, we can create incentives that allow people to go where they want to go, which is how we got into this problem in the first place. The incentive 35 years ago was, "get out in the country, get out of the mission district and move out in the country, move out to Daly City, move out to Millbrae, move out to Walnut Creek, get out of the city, get out there where there are trees," and they all did.

We all did, and now we're out there blowing gasoline all the way, and it's causing us a terrible problem, and we're trying to resolve that by telling them to get out of their cars now that they're out there, and it's crazy.

Ms. EVANS. Congressman, I agree with everything you've said.

Mr. RYAN. Well, then what about this—you said that there might need to be a federally mandated transit system. Am I correct?

Ms. EVANS. That's not quite what I said, and I will try to explain more carefully what I mean. Local people fear Federal mandates. The Federal Government is like the camel. Let it's nose under the tent, and sooner or later it will take over the tent. So, they fear that if they put into the plan, that they would consider and put into effect and make use of Federal, State, and local funds, for an improved transportation plan, the next thing you know either the State of California, or more likely the Federal Government will come tromping into the tent. The next thing would be a mandate to spend local funds the way the Clean Air Act says by the Federal and State people. See HUD and see HEW activities for example.

Such a result is perceived by what is now a very sophisticated citizenry to mean two things. It means that the taxes will go up some more to accommodate this mandated program. It means further dictation of design by Federal people. Again, see HUD and HEW pro-

grams for examples and experience. That has been the reasoning that they went through, and I think the people are probably right.

Mr. RYAN. I sense a kind of reasoning that requires the Federals saying to the State "All right, we're asking you to do this for us;" that is, clean up the air and the water. The State turns around and says to the local government, "OK, we've been told to move, and we've been told to get you to move and clean up your own act." Implicit in that is, "If you don't do it, we'll do it for you." I think that's exactly what the air resources board is there for and what it's saying.

But it comes down to cost. If there is any kind of mandate for completion of a transit system, and I use that only as an example, you can mandate anything else you want, and it comes down to where it's actually ordered, who's going to pay? Is it your understanding that the Federals will be paying for it, or will the local folks be required to pay for it?

Ms. EVANS. I believe the act reads that they shall use fundings for such expansion from Federal, State, and local sources. The Federal sources are often matching grants, and that's the hook that a lot of cities and counties are on now. They're committed for things that they didn't really want all that much.

Mr. RYAN. The reason I asked the question is because I remember very well, having been in the legislature for 10 years, from 1962 to 1972, the number of times we gathered up the sack and dumped in \$300 or \$400 million in cash and sent it down to the bay area to pump up BART, and even just to complete it on a kind of a one-time, throw-away basis.

And I go back again to the costs that are estimated for whatever system we come up with in this environmental management plan. We're talking about hundreds of millions of dollars at the very time we're also talking about proposition 13 and the clear order of the people of this State and I think one can say a pretty good chunk of the Nation in a national sense: "You're spending too much, don't do it." At the very time they're also saying "Clean up air and water," and the interpretation of that is up to anybody, including the air resources board.

But I would think it would certainly deserve consideration and a degree of caution when you talk about, not just how much money we've spent, but where it's to be spent. Who's going to spend it? Is it local money, is it State money, is it national money?

It seems to me if the air resources board is going to comment on the one in the bay area, the one in southern California, the one in San Diego, the one in Sacramento, it ought to also spell out if there are disagreements. If it says in effect, this plan is not acceptable for these reasons, part of the commentary ought to include where the money is to come from.

Ms. EVANS. Yes, I agree with you, Congressman. Can I elaborate a little bit on that, because to me that's the heart of the matter?

Mr. RYAN. Sure, please do. It's terribly important.

Ms. EVANS. I indicated and I now want to emphasize that whereas I think that an integrated transportation system would be very helpful, I suspect that if it comes to voting on it in the air resources board, I will vote against it, and the reason I will vote against it is that the institutional interconnections and the tax situation are such that I



simply will not be responsible for putting an added tax burden on the people. Also, I do not wish to have a federally designed system.

I believe the citizens in great majority in the bay area would really like to have an integrated public transit system with good interfaces and expanded service. It's something they would welcome spending money on were they not spending too much money in taxes already. So, there is absolutely no way transit expenditures will be supported by the people until there is a massive, massive reduction in taxes, and that, of course, means State and Federal income tax. The people perceive, as I hear them, that their Federal tax money in particular is being spent on things which they just don't think are worthwhile.

They also think that the Government is inefficient and it's wasteful. When that can finally be addressed, and taxes substantially reduced, say by 50 percent, then I think we will find ourselves returned to times, like those of the early sixties and fifties, when people willingly and knowingly voted taxes on themselves to do local things. So, I can't say that we're going—I truly am not suggesting that we do this now, 10 years from now maybe.

Mr. RYAN. One last question. Do you think the goals of the Clean Air Act are unrealistic?

Ms. EVANS. Are they what, sir?

Mr. RYAN. Unrealistic?

Ms. EVANS. I think that they're—

Mr. RYAN. We've spent 35 years to get this dirty. Can we clean it up in 5 or whatever?

Ms. EVANS. Yes, with a few exceptions. I'm afraid that the south coast is an exception, and sooner or later we'll have to face that question.

Mr. RYAN. Thank you very much for your testimony. It's been very helpful.

Ms. EVANS. Thank you, sir.

Mr. RYAN. Thank you for being here.

May we have the Environmental Protection Agency next? Mr. James Smith and Mr. Paul DeFalco?

[Witnesses sworn.]

Mr. RYAN. If you would give your name for the reporter?

**STATEMENT OF JAMES N. SMITH, SPECIAL ASSISTANT, WATER AND HAZARDOUS MATERIALS, ENVIRONMENTAL PROTECTION AGENCY; ACCOMPANIED BY PAUL DeFALCO, JR., REGIONAL ADMINISTRATOR, REGION IX, EPA**

Mr. SMITH. I am James N. Smith, Special Assistant to the Assistant Administrator for Water and Hazardous Materials of the U.S. Environmental Protection Agency.

Mr. DeFALCO. I am Paul DeFalco, Jr., the regional administrator of region IX for the Environmental Protection Agency.

Mr. RYAN. In either order, however you choose.

Mr. SMITH. Well, we'll give the headquarters perspective first, and then go into the regional perspective, which may be much more to the point.

Mr. Chairman, members of the committee, I first want to convey Mr. Jorling's apologies. He would have liked to have been here

today. He is unable to make it, and he wanted you to know that he was sorry he couldn't be here.

The water quality management planning program under section 208 provides State and local governments with the mechanism to develop controls for point and nonpoint sources of water pollution. Using the water quality management incentive and assistance, State and local governments develop and carry out long-range strategies defining 1983 water quality goals for an area, and they define control measures for both point and nonpoint sources to achieve these goals.

Now since the 208 legislation was passed, 176 areawide 208 agencies across the country have been or are being funded. There are 49 States in the United States that are involved actively in 208 planning. We have dispersed approximately 100—\$216 million in Federal grants. Most of those are 100-percent grants, although the more recent ones are 75 percent matching. The water quality management program has been evolving over these last few years into a more sophisticated program, as we get a better understanding of the complex water quality problems and the activities required to establish integrated management programs.

The focus of the program has shifted and expanded from early expectations that all water quality problems would be addressed in the initial planning period to a heavy emphasis on addressing priority problems and developing control programs which can be carried out. From an early emphasis on areawide water quality planning, we have expanded the State role and better defined the relationships between State and areawide efforts. Over the past 2 years, EPA has concentrated on providing more detailed direction to the program, both on a substantive and a procedural level. We have increased our emphasis on implementation and the importance of public involvement, and we are beginning to see products from the program.

Although the program has not completely fulfilled its original expectations, I think major progress has been made. There have been many successful problem-solving efforts throughout the country, and we are just beginning to see the fruits of some of those. State and local governments, with our assistance, have examined specific water quality problems and implemented controls to address those problems. Successful efforts, including adoption of State and local ordinances and regulations for point and nonpoint source controls, have resulted in significant cost savings for facility construction through regionalizing. Savings have also resulted from balancing nonpoint source controls against very costly advanced waste treatment options, where nonpoint source controls would result in greater improvements in water quality at a lower cost.

Major program objectives over the next 5 years to meet the national goals of fishable, swimmable waters are: To control point source and nonpoint source pollution, to have construction grant money through cost-effective mixes of structural and nonstructural controls; to build and to strengthen State and local institutional capabilities for water quality management; to foster an involved public consistency; and to address the very complex urban environmental problems that surround all these.

To support these major problems objectives, EPA has developed some long-range program directions in funding and management.



The funding strategy has identified program needs through fiscal year 1983. Four national priority problem areas will be funded: Non-point sources, selected facility planning, pretreatment, and urban stormwater. The emphasis in funding is to tackle those problems with major water quality impacts which we think are solvable.

The program strategy sets out major policy and management initiatives, including integrating Federal, State, and local water pollution control efforts to attain and maintain the 1983 water quality goals. I should add, to integrate the local effort as well, bringing the State more fully into the process. Each State must coordinate with area-wide agencies, and I stress coordinate, to develop integrated water quality management programs throughout the States.

Currently, we have a revised program regulation to carry out these policies. We hope these revisions will simplify the procedural requirements and clarify the substantive requirements of the program. As needed, we will also prepare more detailed annual guidance to assist the water quality management agencies in achieving their objectives.

You also asked me to comment on the ABAG management program, and whether we thought it was a good plan, worth emulating on a national basis. Let me say very briefly, as the regional plans have developed under 208, we think the ABAG plan is a very laudatory prototype, and one we would like to see followed in many areas across the country. Two things are particularly outstanding about it. One is that ABAG's integrated environmental approach to water quality management meets one of the major objectives of the program. It addresses the complex of urban environmental problems. We feel that it is a prototype which provides a useful example for other communities.

ABAG is also ahead of most other water quality management programs in having established a mechanism to develop and implement integrated environmental management and also, I should say, to bring the public very effectively into the process. It combines air, water quality, water supply, and solid waste planning and management through a continuing planning process. The plan incorporates environmental impact assessment throughout the decisionmaking process and considers the interrelated impacts of managing water, air, and solid waste within the urban system. This was an especially prescient approach to take, because subsequent to the development of the ABAG plan, the Clean Air Act, as you know, was amended to provide that wastewater treatment construction grants cannot be made if they will contravene air quality standards. In this respect, the ABAG area is way ahead of the rest of the country.

One of the most important aspects of the process as I mentioned a little earlier, is that it is open to public communication and participation. The ABAG Environmental Task Force has profited greatly as a result of broad-based support from and involvement of local governments, labor, industry, and environmental groups within the bay area. Roughly, \$400,000 was spent in insuring effective public participation out of a total grant in the neighborhood of \$4.4 million.

Because the ABAG planning process has a comprehensive environmental scope and has encompassed a public decisionmaking process, it has been able to deal directly with the top environmental issues facing the bay. Because of its comprehensive nature, it has been easier for

citizens to understand priorities and deal with environmental issues. Rather than having to deal with separate planning and management processes for different environmental media and separate jurisdictions, the ABAG integrated environmental management plan has offered a one-stop opportunity for residents of the bay area who are concerned about the protection and efficient management of the environment.

Nationwide, tremendous public investments are being made to achieve environmental quality. Just within the bay area, for example, over \$3 billion is now being spent or is projected to be spent by 1985. This includes \$1 billion for a combined sewer project for San Francisco, and another \$1 billion for other water quality activities, such as urban runoff and wastewater treatment facilities.

In addition, major public investments are planned and underway for protection of other environmental media, and, I should add, major private investments as well. With this level of public expenditure, the public has a right to expect positive environmental results. An integrated environmental management plan, such as ABAG is developing, is one of the most effective ways to assure the efficient use of public resources to achieve environmental quality.

In the 208 plan, the Federal Government pursues through local and State governments the environmental goals delineated by Congress in the Clean Water Act. The Federal role in water quality planning and implementation is to provide funding, overall program direction and guidance, and technical financial assistance to water quality management agencies. If I might digress just briefly, Mr. Chairman, I think Mr. Jorling's view of the 208 process coincides very closely to your view as you articulated it in opening the hearing this morning. EPA provides assistance, oversees the process and the progress in the program, and reviews and takes approval action on each plan to assure consistency with national water quality goals. This concludes my remarks. Mr. DeFalco can talk more specifically about the actual implementation of the plan and I will be glad to answer any other questions or discuss any issues you may wish.

Mr. RYAN. Thank you. Mr. DeFalco, why don't you go on?

Mr. DEFALCO. Thank you Mr. Chairman. Mr. Chairman, members of the committee. Thank you very much for inviting me here to discuss the 208 program carried out by the Association of Bay Area Governments in the San Francisco Bay area. Throughout the history of the 208 program, region IX's office of EPA has viewed it as one of our highest priorities. I, therefore, welcome the opportunity to share with you today our perspective on ABAG's 208 program. Our headquarters office has already discussed the history of the 208 program. I would like to focus on the significance of the approach used by ABAG in carrying out their 208 program in the context of integrated environmental planning. To begin with, however, let me briefly discuss how our earlier experiences with air quality planning affected the approach which we used in carrying out the 208 program.

With the passage of the Clean Air Act of 1970, EPA required each State to prepare State implementation plans demonstrating how air quality standards were to be achieved. In March 1973, EPA disapproved the State implementation plan for California, requiring that transportation control plan strategies be developed and implemented.



The State of California was unable to develop strategies to reduce emissions from mobile sources, and, in November 1973, the transportation control plans were promulgated by EPA. However, the implementation of many of these strategies proved infeasible. A major factor in the failure of these plans was the lack of public support. Further, there had been inadequate involvement by local and regional agencies ultimately responsible for implementing many of the proposed controls.

In carrying out the air quality maintenance planning program, which also followed from the Clean Air Act of 1970, EPA attempted to apply the lessons learned from the failures of the transportation control plan effort. It was clear that if plans were to be implemented, environmental planning would absolutely require broad-based public participation, and, in particular, close involvement of elected officials and affected local agencies. A "top-down" planning program simply would not work.

Now let us turn to the 208 program. Until 1975, EPA had focused its water quality management efforts on the control of point sources of pollution. With the increasing concern over the more difficult control of nonpoint sources of pollution, attention shifted to the implementation of section 208 of the Clean Water Act of 1972, and development of management plans for control of these nonpoint sources. Lessons learned from the transportation control plans were also applied in the development of the 208 program. As with the air quality maintenance planning program, the need for a "bottoms-up" planning program was clear. This approach was, of course, applied here in the San Francisco Bay area. In the spring of 1975, ARB, the State air agency, initiated a local forum at ABAG which selected a policy task force to oversee the development of AQMP.

In June 1975 the Association of Bay Area Governments was designated as the 208 planning agency for the bay area. Its mandate lay in the development of solutions to unresolved water quality problems, with an emphasis on urban stormwater runoff. With ABAG's designation as the 208 agency, both EPA and ABAG, along with the State air and water agencies, recognized the benefits to be gained from integrating the 208 program with the ongoing air quality maintenance planning program. It was clear that this integration would assure that a common data base was used. Further, it was realized that the demands of each program for effective local involvement could best be met by an integrated approach. In January 1976, the task force which had been established to oversee the air quality planning program dissolved itself and merged into the 46-member policy advisory committee, whose function it was to oversee the development of an integrated environmental management plan. The importance of an integrated approach was further reflected in the inclusion of solid waste and water supply elements in the environmental management plan. The goals of the environmental management plan were to: (1) Lead to the greatest possible improvements in water and air quality, and problems caused by solid waste; (2) to lead to compliance with the Federal and State standards at the earliest possible date; and (3) as a locally developed plan, to be implementable, that is, to have no social, economic or environmental impacts so unacceptable that the plan could not be carried out.

In keeping with the integrated approach, the State-Federal program review boards were established throughout the State to follow the development of the environmental management plans. The program review boards included policy level memberships of the EPA, the State water resources control board, the State air resources board, the regional water quality control board, and the Governor's office of planning and research. As in other areas of the State, the program review board for the San Francisco Bay area met regularly with ABAG during plan development.

Region IX has come to place high value on an integrated approach to environmental planning. An overriding benefit, as a consequence of an integrated approach, is the development of plans which do not create new conflicts or problems. The relatively narrow perspectives of single-purpose planning agencies, which have often led to unimplementable plans, are significantly broadened. Common data bases are utilized. Development and discussion of population and growth projections are carried out in a manner which assures consistency among various planning programs.

An integrated approach provides a means for effective dialog in carrying out planning. Analysis of trade-off's among planning alternatives is carried out in a broader context, with the explicit involvement of elected officials. Social, economic, and environmental priorities, which are of considerable importance in the development of an implementable plan, can be more clearly defined. Further, integration provides a mechanism for coordinating and insuring consistency with related planning programs such as transportation planning, and the 701 comprehensive planning assistance program of HUD.

Finally, integrated planning is much more conducive to realization of that difficult goal of full public participation. An open planning process is assured by a single, highly visible planning program. Integrated planning provides a focus for involvement of all interests, including business, labor, and environmental.

The integrated planning approach has yielded, in ABAG's case, management plans for water quality, solid waste, water supply, and air quality. A significant component of ABAG's adopted environmental planning—management plan is the continuing planning process, which provides for maintaining an integrated planning approach. Future responsibilities and programs have been or are being defined, addressing as yet unresolved issues in environmental management. Mandates of the Clean Water and Clean Air Acts of 1977 will be carried out in a similarly integrated manner. Coordination and consistency will be assured in such areas as the management of solid wastes and hazardous wastes. Provision is being made for incorporation of energy conservation planning as well.

Working from a base of relative sophistication and organizational strength, ABAG was able to rapidly develop an integrated environmental management planning process. While a leader in this area, ABAG has developed a program which is symbolic of region IX's efforts to establish integrated planning throughout the region. These efforts have resulted in environmental planning programs which are integrated to various degrees, including the Los Angeles SCAG program, the San Diego CPO program, the Ventura program here in



California, the Tucson and Phoenix programs in Arizona, and the Reno-Sparks program in Nevada.

You have asked me to discuss the Federal role in the development of 208 plans. In summary, our role is one of financial assistance to the local governments to perform the planning, provision of guidance for plan development, and, in some cases, assistance in plan implementation. Our insistence on a locally developed plan effectively minimizes Federal involvement in plan preparation, thereby maximizing opportunities for local involvement. While our role in plan approval involves a determination of the adequacies of plans which are developed, this determination of necessity considers locally developed planning goals and the effectiveness of the process which was utilized in the planning program.

It is our belief that the merits of integrated environmental management planning have been amply demonstrated here in the San Francisco Bay area. It is our goal to continue to refine and extend this approach throughout the region in carrying out our responsibilities for environmental management in the future. Thank you, Mr. Chairman.

[Additional material submitted for the record follows:]

LIST OF ATTACHMENTS TO ACCOMPANY

## STATEMENT

of  
Paul De Falco, Jr.  
Regional Administrator  
Region IX, U.S. Environmental  
Protection Agency

Before the  
Environment, Energy, and Natural Resources  
Subcommittee  
of the  
Committee on Government Operations  
Congress of the United States  
House of Representatives

San Francisco  
June 24, 1978

1. 208 Agencies and Corresponding Grant Amounts
2. Functional Planning Areas which have been Integrated/Coordinated to some extent with the 208 program
3. 208 Agency Profiles  
NOTE: The computer print-outs are provided as a representative sample and do not cover all 208 programs in Region IX.  
*(Retained in subcommittee files.)*



<u>208 AGENCIES</u>	<u>GRANT AMOUNT</u>
<u>Arizona</u>	
Central Arizona Association of Governments	\$ 106,334
District IV Council of Governments	134,202
Maricopa Association of Governments	614,982
Northern Arizona Association of Governments	298,267
Pima Association of Governments	962,230
Southeastern Arizona Governments Organization	117,189
Office of Economic Planning and Development	100,000
<u>California</u>	
Association of Bay Area Governments	4,302,890
Association of Monterey Bay Area Governments	829,500
Comprehensive Planning Organization of San Diego	1,339,280
Sacramento Regional Area Planning Commission	294,033
Southern California Association of Governments	2,844,192
Ventura Regional County Sanitation District	928,000
State Water Resources Control Board	2,345,316
<u>Guam</u>	
Guam Environmental Protection Agency	286,180
<u>Hawaii</u>	
Hawaii Department of Health	528,474
<u>Nevada</u>	
Carson River Basin Council of Governments	190,510

<u>208 AGENCIES</u>	<u>GRANT AMOUNT</u>
<u>Nevada (Cont'd)</u>	
Clark County Board of County Commissioners	773,880
Tahoe Regional Planning Agency	814,000
Washoe Council of Governments	402,530
Nevada Environmental Protection Agency	513,188
<u>Trust Territories</u>	
Mariana Islands Trust Territory Environmental Protection Board	42,323



AREAS OF INTEGRATION/COORDINATION  
ADDRESSED TO SOME EXTENT

208 AGENCIES

ArizonaCentral Arizona Association  
of GovernmentsDistrict IV Council of  
GovernmentsMaricopa Association of  
GovernmentsNorthern Arizona Association  
of Governments

Pima Association of Governments

Southeastern Arizona Governments  
OrganizationOffice of Economic Planning  
& DevelopmentCaliforniaAssociation of Bay Area  
GovernmentsAssociation of Monterey Bay  
Area GovernmentsComprehensive Planning  
Organization of San DiegoSacramento Regional Area  
Planning CommissionSouthern California Association  
of Governments

Water Supply	Solid Waste	Comprehensive Planning Assistance	Transportation	Coastal Zone Management	Air Quality
X	X			N/A	
X	X			N/A	
X	X	X	X	N/A	X
	X	X		N/A	
X	X	X	X	N/A	X
	X	X		N/A	
N/A	N/A	N/A	N/A	N/A	N/A
X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	X
	X	X	X	N/A	X
	X	X	X	X	X

AREAS OF INTEGRATION/COORDINATION  
ADDRESSED TO SOME EXTENT

California (Cont'd)

Ventura Regional County  
Sanitation District

State Water Resources Control  
Board

Guam

Guam Environmental Protection  
Agency

Hawaii

Hawaii Department of Health

Nevada

Carson River Basin Council of  
Governments

Clark County Board of County  
Commissioners

Tahoe Regional Planning Agency

Washoe Council of Governments

Nevada Environmental  
Protection Agency

Trust Territories

Mariana Islands Trust Territory  
Environmental Protection Board

	Water Supply	Solid Waste	Comprehensive Planning Assistance	Transportation	Coastal Zone Management	Air Quality
Ventura Regional County Sanitation District	X	X	X	X		X
State Water Resources Control Board		X			X	
Guam Environmental Protection Agency	X	X			X	
Hawaii Department of Health	X	X			X	X
Carson River Basin Council of Governments					N/A	
Clark County Board of County Commissioners					N/A	X
Tahoe Regional Planning Agency		X			N/A	
Washoe Council of Governments					N/A	X
Nevada Environmental Protection Agency		X			N/A	
Mariana Islands Trust Territory Environmental Protection Board	X	X	X			



Mr. RYAN. Thank you. Mr. Smith, perhaps it would be better to begin with you as the Administrator of this Council of the Environmental Protection Agency. Some time back, he said he would give his "eye teeth," that's a quote, to get the 208 money back, and I think he's referring to about \$300 million. EPA apparently has considered terminating the program. Is that true?

Mr. SMITH. We are considering terminating some programs, Mr. Chairman. Money has been spent that has not been effectively utilized, and there's no point in pouring more money after it.

Mr. RYAN. Where did that happen?

Mr. SMITH. I would hesitate to identify areas right now. I can get you a list, if you wish.

Mr. RYAN. I would very much like to have a list for the record. If you can do that I'd appreciate it.

Mr. SMITH. We have not terminated any yet. There are several under consideration.

Mr. RYAN. You mean they just haven't complied?

Mr. SMITH. That essentially is right. They have basically wasted Federal money.

[The list referred to follows:]

U.S. ENVIRONMENTAL PROTECTION AGENCY,  
Washington, D.C., July 13, 1978.

Hon. LEO J. RYAN,  
Chairman, Subcommittee on Environment, Energy, and Natural Resources, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the recent hearings regarding the EPA grant of section 208 funds to the Association of Bay Area Governments, you asked Jim Smith of my staff to provide you a listing of 208 agencies which have been terminated or which are being seriously considered for termination. Our most recent information is as follows.

Designated areawide agencies in Oklahoma City, Oklahoma; Joplin, Missouri; Richmond-Crater, Virginia; and Bay County, Florida have already been terminated. The termination of agencies in Toledo, Ohio; Mandan, North Dakota; Evanston, Wyoming; Carson City, Nevada; and San Juan, Puerto Rico also is being considered.

If you have additional questions concerning the 208 program, please do not hesitate to contact me.

Sincerely yours,

THOMAS C. JOBLING,  
for Water and Hazardous Materials.  
Assistant Administrator

Mr. RYAN. Isn't there a lesson in there for all of us?

Mr. SMITH. Indeed.

Mr. RYAN. That might be the answer to all of the problems there are for those who are opposed. Would it be then unwise to make long-term and very costly commitments. You've talked about \$3 billion for the bay area. What percentage of that \$3 billion is to be locally spent, I mean to be raised locally and spent locally?

Mr. SMITH. I believe I'm correct in saying that 75 percent of all of that would be Federal money.

Mr. RYAN. Seventy-five or twenty-five percent of \$3 billion. I can't do arithmetic very well, but let's just say \$750 million.

Mr. SMITH. Yes. I think what we are talking about is not planning money. It is money for actual construction, for building.

Mr. RYAN. What if the bay area gets halfway into spending \$750 million and suddenly the Feds will say well, "Gee, you know, we're—we don't think that's such a good idea anymore"? What will you do then?

Mr. SMITH. I think that our commitment with the program is to watch 208's very carefully, and to see that money is not committed in areas where we think there is no basis, no good planning, and we think the bay area is at the stage where things are progressing very well.

Mr. RYAN. Yes, but you're talking about money that the Congress is going to appropriate.

Mr. SMITH. That's right.

Mr. RYAN. I don't know whether the Appropriations Committee or the House is going to throw good money after bad. What's to guarantee that once we get into some kind of program or construction of the BART system or of the clean water program or the necessary sewage facilities in San Francisco—that the Federal Government is not interested in pursuing it any further? A partially completed plan can cause as much damage as no plan at all.

Mr. SMITH. Well, that's always a danger, Mr. Chairman, where you depend on an annual appropriation.

Mr. RYAN. Well, we do.

Mr. SMITH. We do, we do indeed.

Mr. RYAN. So politically, unless there is some kind of guarantee that the State of California as well as the Federal Government is going to commit itself to some kind of 10-year program including some means by which we commit the money, you'd have to say that it would be—it would be at least if we use Standard & Poor ratings, a kind of medium-risk proposition; wouldn't that be a fair categorization?

Mr. SMITH. On the night of the recent amendments to the Water Act, Congress did provide for a 5-year authorization. It would seem then to be the intent of Congress to fund that authorization.

Mr. RYAN. Well, does EPA intend to sort of stick by its commitments even if some of these communities fall by the wayside, or lose their enthusiasm, will EPA continue to commit itself and help find the money?

Mr. SMITH. Yes, sir. If we approve a facility plan, the step 1 facility plan, and move from design to construction, we will definitely keep our money on the line, and our commitment.

Mr. RYAN. The next thing has to do with deadlines. What about—if San Francisco Bay area is first, is that true? Are we further ahead than anybody else in accepting this plan now?

Mr. SMITH. Well, you're way out in front. There may be one or two others that are equally sound so far in the front line, but the bay area is really—

Mr. RYAN. So you like the plan and we're way out ahead then?

Mr. SMITH. Yes, sir.

Mr. RYAN. Is the EPA in Washington impressed with the plan?

Mr. SMITH. That's right.

Mr. RYAN. What if the State of California, the water quality board and the air resource board say we don't like it before it gets to you?

Mr. SMITH. That could happen. Under the statute, they have the right to disapprove it.



Mr. RYAN. That's right.

Mr. SMITH. If they do disapprove it, they have the option of coming up with something better themselves. That's their first line of retreat.

Mr. RYAN. All right, now this is where I get back to what Mr. De Falco referred to when he tried a little earlier with the "top down" theory and it didn't work. Now we're going the "bottom up" theory. If we have the "bottom up" theory, this is what the bottom produces, this is what the local folks produce, and the top folks say it's no good, here's what you're going to do, what's the chances of it actually happening? Where would the EPA be in Washington looking out while the State says one thing, and the locals say another?

Mr. SMITH. Well, in this particular circumstance, I think it's highly unlikely. I wouldn't want to mislead you and tell you that it's not going to happen anywhere in the United States however.

Mr. RYAN. That's what I'm talking about. This is a national policy, and I use local examples. We can talk about Cincinnati, we can talk about Miami, we can talk about Chicago, we can talk about any place you want. What happens when there is that?

Mr. SMITH. We, the Agency, and I believe I'm correct, have the possibility of overriding the State and working with the locality if the State fails to act itself and move in with its own definitive plan for guidance, but just disapproves a local activity. I think we would then try to work with a local government and develop what we could.

Mr. RYAN. Is that the way you see it Mr. DeFalco?

Mr. DeFALCO. There's some difficulties that lie in the statute, Mr. Chairman, in that the statute essentially assigns to the Governor the ability to designate State or local planning agencies and reserves to the State the approval process. Now, if the State does not approve the local plan, it has the responsibility under the statute to provide an alternate, and if the State fails to do that, then EPA has to work out something. I think what we've tried to do here, and we've tried to, just about everywhere in the country, I'm aware, is tried to maintain our and the State involvements in the planning process from day one, so we're not confronted at the approved stage with something we're unaware of, or that's unacceptable. There may be differences of opinion in terms of the applicability of various scenarios and the like, but generally speaking, the plans as they move forward have concurrence, and that was very frankly the basis for the program review board concept that we had here in California with each of our agencies with participation from those other agencies that had decisionmaking functions. So there shouldn't be that unawareness.

Mr. RYAN. There was reference on several occasions yesterday, and in the past few months I've heard it over and over again from local officials, almost without exception, and the general comment went like this:

Do you like the plan?

"Well, it's all right I guess."

Would you do it if you didn't have to?

"Well I don't know." Would we do it this way?

"But, if we don't do it, they're going to come in and do it for us."

There's a kind of gun to the head sort of compulsion there. Do you know of any kind of comment or any kind of objection to comments like that in other parts of the country first of all, Mr. Smith? Has that been an objection elsewhere?

Mr. SMITH. I'm not aware of it specifically, no, sir.

Mr. RYAN. Mr. DeFalco, how about around here?

Mr. DEFALCO. Well, there are objections of that nature to just about any federally mandated or State mandated program by local officials. This is a rather common occurrence in our institutional system. One likes to be in control of one's own destiny. I think you've expressed it rather admirably before in terms of your past experience at the local level, and yet we do have in fact, a tiered system of government which tends to lay on these requirements.

Mr. RYAN. Now let me ask another question that has to do with what I believe to be a serious shortcoming in the way the law is written and the way it's implemented going back to what I believe to be an essential fundamental in good government, which is that you give people incentives to go in the right direction.

You don't punish them. There's no better example of the second route than what you refer to as the "top down" that you use with an attempt to penalize people who move out of the cities and into these suburban areas and developed all these suburban shopping centers, which are terribly expensive from a pollution standpoint.

But, they're there. I don't think it's possible to punish them because 30 years ago, that's what they decided to do about Federal programs.

They built the highways to get the people out there, Federal highways. They gave them FHA loans to buy the houses, and they loaned them the money and having done so, encouraged them to get out there, and now that they're there, we're going to chop them off. I think it's foolish.

What I want to know is, why can't we go the same direction by bringing the people back to the cities or developing where they are to the point where they use the automobile less, because they want to, not because they have to.

Specifically, what kind of work has EPA done to order, if necessary, the Department of Transportation or the Housing and Urban Development Department, or the Department of Energy, to come up with some kind of plan by such-and-such a date to resolve the problem of air and water quality? Can you do it? Have you discussed it in Washington? Can you do it here in the regional area as an experiment?

Mr. SMITH. Nationally, you know, we don't have that kind of leverage. Congress would have to direct that, or the President. We have discussed, we have had interagency agreements with them—

Mr. RYAN. We could try.

Mr. SMITH. We could try. I don't think we would have too much thrust on a—

Mr. RYAN. I think you'd be surprised at how much you did have if you tried. What I'm saying is, one of the things that has not happened in all of this is that you're willing to order mortals around, but you won't attempt to order each other around, which is where the darned battle ought to be.

Mr. SMITH. The Federal Government doesn't have its own act together, yes.



Mr. RYAN. That's wrong. Precisely.

Mr. DeFALCO. Mr. Chairman, may I respond?

Mr. RYAN. Please do.

Mr. DeFALCO. In terms of the bay area, we have had rather direct and intimate involvement with both HUD and Transportation over the last 5 to 7 years. Growing out of that first go around on the Clean Air Act, some comments I think you made at a hearing some time ago raising that very issue, we are a participant in what's referred to as the Intermodal Planning Group, a DOT organization that tries to join together the efforts of DOT, HUD, and ourselves to integrate our planning at the Federal level, and we have provided rather substantive comments to them on many of their plans, and their plans are starting to take into consideration these kinds of issues.

But I do think, referring back to something you said before, we're trying to undo what we've taken 35 years to create. It's not going to happen overnight. The ABAG plan is a plan for the next 10 to 20 years. What we're looking to, and I think the Water Quality Act tried to do that, in a sense, but unfortunately all acts have to be implemented the day they're put on the books even though there may be a general plan laid out in them. And, there is a plan laid out in the Water Quality Act for a planning process followed by a program of construction based upon a series of incentives—the construction grant program. Unfortunately we're caught up practicing all of them at the same time, rather than the orderly approach that would come if we had our options. I think the same thing is happening in Transportation, and what we have to do over the next 20 years is try to undo, using the various Federal incentive programs, some of the harm we've done to the area over the last 35 years.

Mr. RYAN. I'm glad to hear you at least say that it's Federal policies which have caused the harm in the process.

The Federal Government itself ought to be the first to begin to undo the damage it's still doing, by its own shortsighted policies that are running 2 years in planning length.

What about DOE and HUD and DOT? Are they going to be involved in the review of this plan?

Mr. DeFALCO. We would be having discussions with our sister agencies on their components or their elements, and as we are observing their programs and plans.

Mr. RYAN. I can't think of anything that would help to resolve the problem, as far as Federal policies are concerned, more than incentives to bring people back to central cities.

Just take my own area in San Mateo County, a 100 percent suburban area. You're never going to get people out of their cars. I don't give a darn if you go out to their house in the morning with a pistol. They'll knock it out of your hand and go anyway. They're not going to do it.

On the other hand, if you take the shopping centers for example, as a point of departure, and ask questions about why it's spread out in two dimensions and not in three, building up, why you can't put in some housing when they're within walking distance of the shopping center, it's high rise.

That's controversial. You talked about high rise in the building game 58 years ago. I remember the first time the planning commission

voted to put in a high rise building, more than about 5 stories high, and there was hysteria in the planning meeting in the Burlingame City Hall. Now it's accepted. Always when there's change, it takes time to be accepted, but I think that if the Federal Government is going to push and shove and bully as it has in the past, the least it could do is to have sympathy for the people who are out there already, that they put out there, and give them some kind of support.

I don't see the part of the Federal Government itself now, in these kinds of plans. I notice the Secretary of Transportation saying that in Washington he wouldn't be satisfied until he got everybody out of their automobiles and into mass transit.

What a zealot he is, and how foolish, and I wonder how long he'll last. The people will only stand for so much and I guess I believe, in concluding here, with you as Federal officials, you have a great deal of power, and I think what makes people disillusioned including me, and I think many Members of Congress, is that you don't clean up your own act. You ask others to do it at your order.

What about DOT and HUD and DOE? Will they be putting in writing suggestions and comments as to what their policies are or what they intend to do to help with this air and water quality cleanup?

It isn't just air and water. Heck, we're talking about changes in the lives and in the customs and in the pursuit of happiness of 41½ million people in the bay area alone, let alone 10 million in southern California and elsewhere in the country.

Mr. DeFALCO. One of the reasons for placing the grants of the programs originally with the areawide planning agencies was to get that kind of integration, since the areawide planning agencies had the responsibility for the HUD 701 planning, and in this particular case, rather direct involvement in the planning of transportation. So to a great extent that has been integrated, and that has been fed into the system.

Mr. RYAN. Well, thank you very much for coming, both of you. I appreciate your comments, and they've been very enlightening, and I think a little more encouraging than I'd expected. Perhaps, with the right kind of integration, this thing can be made to work around here.

I don't know, but we're talking about an enormous—actually staggering—amount of money, and a staggering amount of involvement by local officials with State and Federal folks, and I would earnestly hope just saying it from here once more that the Federal and State officials will exercise the power they have extremely carefully.

The reason why the "top-down" approach didn't work with the parking lots a few years ago was because you got the whole darn Congress riled up, and when you get them riled up, it's because there are millions of people who are pretty unhappy, and I think it takes a little more sophisticated approach.

Thank you very much for coming, both of you.

Mr. SMITH. Thank you, sir.

Mr. RYAN. It's now almost 12. We will take a break for lunch and be back here at—I'm anxious to get all of you out of here as soon as possible. We need to hear testimony now from the people who are most affected by the discussion of the last day and a half. I'm very anxious to hear from them, the business community and the labor community. We will reconvene here at 1.



[Whereupon, at 11:55 a.m., the subcommittee recessed to reconvene at 1:04 p.m., the same day.]

#### AFTERNOON SESSION

Mr. RYAN. The subcommittee will come to order. The next group is a panel from labor—representative of labor here in the San Francisco Bay area, Mr. Holcomb, of the plumbers; Dale Marr, of the operating engineers; Bonnie England, representing COLAB; and Doyle Williams of the steamfitters.

[Witnesses sworn.]

#### STATEMENT OF H. C. HOLCOMB, PLUMBERS & STEAMFITTERS LOCAL UNION NO. 467

Mr. HOLCOMB. Members of Congress of the Environment, Energy, and Natural Resources Subcommittee, my thoughts for the hearing on the ABAG, EMP, and the Clean Air Act are few. Items to be addressed on the labor panel are to be: (1) how did labor's view impact the EMP? (2) what were the compromises in the planning process? (3) how should the plan be updated to meet local needs?

Taking into account the above three items, I have interwoven my comments and remarks in the following report.

I am speaking today as a member of the organized labor movement, as a member of the ABAG Environmental Management Task Force that has been involved in preparing the environmental management plan for the past 2 years, and the only elected representative of organized labor on the entire 46-man task force, and, of course, as an active citizen and a lifelong resident of the bay area.

Labor impacted the EMP at a number of points in the process. In the initial stages of the plan we participated in drafting—to the extent that anyone knew what was coming out of the staff-prepared plan—and were thus able to forewarn people of the negative impacts that certain sections of the plan may have contained.

In the initial hearings it was organized labor which spread the word and noted the negative impacts which the plan—particularly the AQMP—had in social and economic terms. The land use section of the plan would have cost 10 times as much as any other strategy to implement. This would have been offset with an improvement of 3 to 5 percent in the air quality by the year 2000. Or put another way, the land use section would reduce emissions by 24 tons/day in an inventory of 450 tons/day, again, at a cost 10 times that of any other strategy.

Working families, as well as people on fixed incomes like retirees, would be hit the hardest by such a plan. Minorities and inner-city residents could expect to be hard hit, as always. Prices could be expected to rise as the amount of land available would be reduced by 59 percent. The existing land and housing would be in greater demand, causing prices to rise higher than they would otherwise, in an area of the country which is witnessing recordbreaking increases in cost-of-living figures ahead of the rest of the Nation.

Tech memo No. 15, by ABAG's own admission, pointed out some of these impacts.

Just as labor was one of the prime movers in pointing out the nega-

tive impacts of the plan, it was and is labor that has taken part in amending the staff-drafted plan to arrive at the EMP which we have today. In doing this, labor, as have others, has become involved in the legislative process of give and take, of compromise of possible loss of jobs and economic growth in the bay area.

Labor has defended the plan, realizing that this is a good-faith effort to meet stringent and conflicting regulations and standards, and that by compromising and getting involved at the local level where the plan was drafted and Government is closest to the people, we have been able to produce a plan which does meet the standards.

Now it is the job of the State to approve the plan with no major modifications or changes.

Just to stop and summarize for a moment, I think the point that labor has gone from the critic to one of the defenders of the plan, and by defending it I mean only the fact that we were given something and told we were going to get this or something worse is important. I can think of a number of examples of help in this project from organized labor in our lobbying effort; the results showed 2 weeks ago was that with the able help of Bob Gilmore in San Mateo, Bob Duffey, John Rebiero on a number of occasions in the south bay, as has Mike Nye of the central labor council in Santa Clara. In the east bay, Bill Ward, Doyle Williams, members of COLAB, et cetera, and Local 3 of the Operating Engineers.

The important point here is that the compromises were made, people stood to lose and still do, but decided to go with the effort. This leads into the next section of "How should the EMP be updated to meet local needs?"

Several factors are important in looking toward the updating of the plan. First, the general assembly in San Jose, the only question which was not unanimously decided was that of equal enforcement of the plan. The amendment, which was offered from the floor to scrap the plan should we find the other areas of the country are not complying and thus putting us at a competitive disadvantage, failed by a close vote. I believe that vote may have been one vote shy. That says that there are at least half the cities and counties in the bay area concerned about the fair and equitable implementation of the Clean Air Act throughout the country. As a number of people have said, the bay area does not want to be a guinea pig for the rest of the Nation.

The other factor which I think is important at this time is the message of Jarvis-Gann. Clearly, people were saying that they want a government which is more efficient and we just can't afford to be paying for programs which don't make sense, neither dollars and cents, or commonsense.

Local governments have felt the impacts in the last weeks as they prepare alternate budgets. The State is also getting religion during this process. Obviously there is a lesson to be learned here for the Federal Government. Land use was rejected by local government as it was not a cost effective, nor a socially acceptable strategy to meet air quality goals. Single-purpose planning, like land use in an air quality context, is not the way to go.

So, in the updating process, we should be looking to the equity issue as well as the actual implementation of the plan. On the second im-



plementation, we have to be assured that the plan is not a no-growth plan.

In the continuing planning process we have to be wary of the pitfalls that were faced in the preparation of the original plan. Those would include issues of citizen and public interest groups—such as labor—continued involvement in the CPP. Also, ABAG has to continue to strive to be responsive, and in touch with local government. After all, we are them, they are us, et cetera. But things have a way of getting away from us when someone is not watching the store.

As part of the legislative recommendations contained in the plan is point 2.9 which says that we have met the stringent standards and that ABAG urges Congress to reexamine the no-risk philosophy and requirements of the Clean Air Act to make them reasonable for local governments seeking to comply. The standards issue is brought up in other areas as you know. COLAB has made its endorsement of the plan hinged on the reexamination of the standards, that has been one of the assumed goals of labor, the Bay Area Council, Operating Engineers of Local 3, and so forth. This statement touches on this issue as well as the concern for its plan not being a no-growth plan.

Looking back, I forgot to mention the issue of compact growth as related to social and economic impacts of land use. The assumptions made on social behavior were particularly noteworthy, that of people living near their jobs. Labor families and families which cannot always afford to live where they want to and, therefore, have to commute to jobs, wherever they might be able to find them, do not fall into the assumptions made in the compact growth scenario.

Thank you for listening.

Mr. RYAN. That's a nice statement. Mr. Marr?

#### STATEMENT OF R. P. MARR, OPERATING ENGINEERS LOCAL NO. 3

Mr. MARR. I think, Mr. Chairman, to start I should mention that Dale Marr, who is the business manager for Operating Engineers Local No. 3, is unavailable at this time, and so asked if I would appear on his behalf.

I spent all week preparing remarks for you and I've given copies out, and I think back to what good friends we used to be working in the State department of labor, we've always said that there's three speeches you always do; the one you prepare, the one you give, and the one you think you should have given on the way home. Since I've prepared this during the week and have thought about it yesterday and today, I have thought of other things to say, but I'll run through it and maybe supplement a little.

Mr. RYAN. If you wish, we can accept your written comment here for the record and it will be printed as such and you can simply amend what you've got here as you see fit.

Mr. MARR. I think I'd like to do that at the essence of time. There are areas that both Chet and I would cover and, therefore, I think the State will find an overlapping testimony.

Some of the things that we've been concerned about since the inception of the ABAG money, and one thing of major concern was the

fact that the Federal Water Pollution Control Act section 208 moneys which we understood would be used for clean water, were used to do a totally comprehensive plan, and we've questioned that from the very beginning.

But the thing that has always really concerned me is the way the bureaucracy seems to waffle off whatever money is put forth in planning things, and all the plans in the world don't do any good to help the situation that they're planning for. So they issued \$4.3 million to do a study of cleaning up the environment and yet it has not done anything but dirty the environment with an extra 300 pounds of paper every time you turned around. If it were to be beneficial to the people it would seem to me that the minor amount of money used for planning, the rest would then be turned loose to actually start running those programs. Yet, in the 4 years ABAG has been planning things we could have sewer treatment, water treatment facilities, and improve the quality and the supply of the water.

I guess the basic issue in planning always seems to be that they plan things to deliberately be obsolete in the next number of years. Invariably, freeways are planned to be obsolete 5 years after they're completed. And it seems to me in areas such as sewage treatment, water treatment, where pumps and mechanical things are involved, you would always want to build it a little larger than it is suggested it should be so that the capacities are not always let up against the absolute maximums, and the pumps are running 24 hours a day and burn out money to replace them, and to be an efficient operation you would always want to have a little extra in case something happened: A boring TV show or something and everybody went to the restroom at the same time and that great influx hit, you could handle it. But, invariably things happen, and they know, you can't do this. The one thing I use as an example is the city of Reno which is part of our jurisdiction. They must by 1982 expand their sewer capacity by 10 million gallons a day. The city of Reno looked into the possibilities and then said—and I forget the exact dollar amount, it was \$12 or \$15 million—"for an extra 20 percent funded money, we can double that to 20 million gallons a day capacity." And the Environmental Protection Agency, region IX told them, "No, you can't do that. In 1996 we will look at the feasibility of giving you another 10 million gallons a day."

And, in 1996 they'll show that they badly needed that 10 years before they gave the approval to it, and old John Q. Taxpayer gets stuck footing that bill again. And it just compounds and compounds and goes on and on and on. We're hopeful that since we do have our tax revolt proposition 13, that maybe the rest of the people will take a lesson from it, and become more efficient.

I think that one of the areas that we would really like to see, and it sounds funny for a labor organization to be crying on behalf of the employers, but the fact remains that if the economy's bad, we get our just rewards, and if it's good, we get our share. But the areas that are heavily industrialized and have the dirty air are being told that you cannot allow any new facilities into the area and, therefore, you cannot generate any new employment. You can't allow the people to move up and down the economic structures, and it seems to me that the more practical things would be that you would do everything you could to upgrade the old plants that are there that don't have the



new environmental gear, and the new plants that are built have to by law, conform to the environmental standards. So it would seem to me you'd want to encourage all the new industry you could that would conform to the standards, instead of penalizing those people and letting the guys that have been there for 20 years go ahead and pollute the air. We tried to "top down," and now we're trying to "bottom up," and at the same time we're still going backwards.

Those are the areas that really concern the people that we represent. Historically, labor is a representative of the dues-paying members and their families, but the underprivileged, the minorities, the working class poor, whatever, we train and take them all in to our unions, and those are the areas that we really have to worry about. A person who lives in the inner-city area has a totally different idea of what the environment is than somebody that lives in St. Francis Woods—San Francisco. His environment is what's happening on the street around him, what the people in the apartment next to him are doing because of paper-thin walls and everything else. And they're the ones that are really worried about the day-to-day happenings, and not what's going to happen 20 years from now. They're worried about making it today, not tomorrow. And that seems to me that should be an area of great concern to more people than it seems to be of concern now.

Mr. RYAN. Mr. Williams?

#### STATEMENT OF DOYLE WILLIAMS, BUSINESS MANAGER, STEAM-FITTERS LOCAL NO. 342

Mr. WILLIAMS. My name is Doyle Williams and I'm business manager of the Steamfitters Local 342. My local is a casualty of the Clean Air Act with 60-percent unemployment. My members would have built the Dow Chemical plant which was turned down upon air quality standards. We would also have built the plants which are now banned by current ABAG plan and Clean Air Act standards.

I am appalled by the tactics of the environmentalists and so-called clean air experts in the EPA and the State air board. These people are far more concerned about empire building or in stopping growth than in cleaning up the air. Indeed, I don't think they care about people's economic welfare, which ultimately leads to the social disorder and deprivation of the family unit.

The ABAG fiasco is one more illustration of just how bad things have gotten. I, for one, in my local union, may not count for anything, but I want all to know what has gone on here. It would appear that everyone else is too polite, or too scared, to tell it the way it really is. I have nothing to lose anymore.

First: EPA and the State got together and selected ABAG as its lead agency to prepare this plan. In the process they bypassed already existing local and regional agencies.

Second: To insure funds for the project EPA diverted \$4.3 million of the clean water funds to do a four element environmental management plan. This step assured EPA control of the process and insured confusion. This action is the subject of a lawsuit now pending before the U.S. district court.

Third: Staff set up a task force which had the job of reviewing a confusing, and often vague, set of rules, proposals, strategies, studies,

and policies. This process led to a monstrous draft plan, which had been prepared without one word of critical analysis, public input, or economic assessment.

Fourth: There was virtually no honest assessment of the plan, and were it not for a private sector group such as COLAB, who are outside of the process, it is doubtful that the draft plan would have ever been challenged. As it was, an intensive lobbying campaign was required in order to get EPA and ARB staff off ABAG's back. As soon as this occurred, the process opened up and meaningful changes began to occur. These changes resulted in the compromise plan.

Fifth: Even with the plan—with a plan which meets the law, EPA and ARB staff continued to hammer on us. As I see it, they know the compromise plan is essentially OK, but they are made because we refused to adopt certain strategies they wanted to try. Accordingly, we all fully expect an effort to reintroduce the controls desired by outside staff based upon claims that the plan is inadequate.

Sixth: EPA and Congress, gave us very few choices by virtue of not allowing us to question the Clean Air Act standards. Accordingly, we did not spend one moment considering the social and economic effects of the existing new source rules which are mandated by the existing standards. The situation has been analogous to condemning a man to die while letting him select the method of his own demise.

My recommendation in order to prevent this sort of abuse, I would recommend the following measures: (1) Pass legislation preventing EPA from using section 208 dollars for other purposes, and from requiring plans to be formulated simultaneously; (2) pass legislation recognizing that air quality plans have a high level of uncertainty and require EPA to approve any bona fide plan which is supported by substantial evidence; (3) pass legislation providing funds to retain independent consultants to prepare economic and social assessments of each plan; and (4) review the change of the no-risk philosophy embodied in the Clean Air Act and upon which current standards are based.

I would just like to ad lib a little bit at the end. Our present status of the air quality and water quality as we've been told by the bay area air pollution control board, that the air quality since 1968, and the water quality, has cleaned itself up considerably, 2- to 3-percent per year.

My particular membership has been decimated by unemployment brought about by the unbelievable time delays and unattainable standards that seem to be required in new construction facilities. These standards aren't uniform across the Nation, and this is what's most difficult to explain to my membership and other building tradesmen that are leaving the country, or leaving the State, going to other States which seem to believe in growth such as Washington, Arizona, and Texas. My membership right now at the present time, you can't explain to them at all why the Dow Chemical Co. which was turned down in this area, and it only took 6 months for them to break ground in Texas, Louisiana on the same facilities. If the EPA standards were enforced uniformly across the Nation, I am sure we're going to see mass chaos in January 1979, when the standards—the Clean Air Act standards ultimately cut down on the rest of the 128 nonattainment areas, because I particularly feel that they don't really know what's



about to hit them, and there will be extensions and delays, but if we take a little commonsense attitude about this situation, and realize that there has to be social and economic growth along with cleaning up the air, I think we'll all be better off.

At the present time, the trade-off policy that was adopted by the bay area pollution control board is not going to be workable, because only the plants that are literally about to fall down now are going to be able to build. There is going to be no more new construction in the bay area as far as heavy industry goes, and we need heavy industry as well as we need residential and commercial development. If we don't have the one, we don't have the other. So we're going to have to take a second look at the Federal Clean Air Act, and we've lost the United States Steel Co., integrated steel mill in Pittsburgh, which was a \$2 billion job, \$100 million at Bidel Paper Deinking and Recycling Plant which was a means of not cutting down the trees in the north and it was turned down, so there's been numerous, numerous projects that have been turned down just because of overzealous standards that really weren't looked at in a realistic manner.

I want to thank you at the end for taking time out of your schedule to come out and make this, because I think this is long overdue.

Mr. RYAN. Thank you very much, Mr. Williams, for a very excellent statement.

May I ask this? Who put together the size and the consistency of the advisory group of the 46?

Mr. HOLCOMB. Mr. Ryan could I—I have a few notes that I added today, and I think one of them will explain that.

Mr. RYAN. OK.

Mr. HOLCOMB. The ABAG staff is basically an environmentalist and no-growth by the nature of their makeup. Not only that, but many of the environmental task force members were selected by the staff for that very reason. When I first appeared at an EMTF meeting well over 2 years ago, I could hardly believe the makeup. I asked if labor could be more equally represented. That was shot down real quick. However, we were able to place a labor man on each of the subcommittees. With the odds as they were, they were allowed little or no input. In the final vote on land use, although labor and their friends were successful in removing it to the CPP and later out entirely, there were many reasons for the success. Land use should be controlled by local government only. ABAG is an unnecessary additional layer of government. Many local officials have yet to realize, I believe, that proposition 13 is in effect. Labor voted for this plan, but if—but it was this or the State or Federal regulations had not been drummed into us, we would have thrown the whole thing out, and with the entire plan in my estimation. Thank you.

Mr. RYAN. Who actually had the authority to pick the group? Where does the authority come from, the government?

Mr. HOLCOMB. I'm not sure just exactly how they were picked by the government to begin with, the State government, but they were hand picked, and if you talk to them, believe me they're a bunch of posey picking no-growth people.

Mr. MARR. Mr. Ryan, I think it was the original delegation of who ABAG's staff would be, came through Mr. Press' department, office of planning and research.

Mr. RYAN. Well, one of the things I'm finding we could develop, and maybe perhaps the staff can go into it later on, is who made the machine?

Mr. MARR. We've been asking the same question.

Mr. HOLCOMB. That's correct, we've been asking the same question, Mr. Ryan.

Mr. RYAN. Because obviously, if it's done by a particular group, the bias would be there.

Mr. HOLCOMB. It was.

Mr. WILLIAMS. Mr. Ryan, I think what's happening here is we can't put all the blame on the Federal Government, and I think there's certain blame to be placed on the State administration. At the present time, as I understand it, and I discussed this with Bill Press and Mike Bedsoe of the office of planning and research, and it's indicated to me that under the State implementation plan you're going to see the same type of enfamille which we're not opposed to, but we are opposed to it if it's the only type of construction allowed. We feel that it's improper to draw a line around the city corps and say you can't build outside of that, because if we followed that kind of philosophy 200 years ago, we would never have reached the west coast, and I think this is a philosophy of this administration to enfil as much as possible, and the way any new construction homes and what have you, in suburbia.

Mr. RYAN. I think it's extremely important as far as national significance, that we determine how these groups that made the plan are created. Who your jury consists of determines what the outcome or the result is going to be. I think there have been enough lawsuits on that in regard to racial problems in the South, and other places, as far as what the biases are and what is essentially a jury. Now what you're saying is that labor believes, and you speak for labor, I presume, here in the bay area, that the deck was stacked, is that correct?

Mr. HOLCOMB. Yes, sir.

Mr. RYAN. You said you had one labor man representing the labor community out of the 46 on the panel, and that was you, right Mr. Holcomb?

Mr. HOLCOMB. Yes.

Mr. RYAN. Did labor make any effort to resist that or to change it?

Mr. HOLCOMB. I asked for more. And we did have one other good friend.

Mr. RYAN. Who did decide on the 46? Why is 46 the magic number, why wasn't 23, why wasn't 122?

Mr. HOLCOMB. It was smaller until they found reasons to put another group that was favorable to their way of thinking on it, such as one of the later ones brought on was the midpeninsula fair housing. The person that was put on that is an avowed non-growther. The senior citizens were represented by a very excellent man, and he's a nice guy, but he also was a complete avowed no-growther. They found spots for—

Mr. RYAN. Who put them on? By what process—how'd they get a vote?

Mr. WILLIAMS. As I understand it Mr. Ryan, the committee—the executive committee was made up of elected supervisors, councilmen, et cetera, and they each had something to do with—

Mr. RYAN. The ABAG executive committee actually was the appointing authority.



Mr. WILLIAMS. Right, and they each appointed what they saw fit, more or less.

Mr. RYAN. The executive committee consists of—how is the ABAG executive committee chosen?

Mr. MARR. One member from each board of supervisors of the nine counties and one member city, each city had one representative. So you had a total of 91.

Mr. RYAN. As members of the executive committee? And the members who are on the ABAG executive committee would be appointed by their board of supervisors and by the county council of mayors, I suppose.

Mr. MARR. Well, it came out each city had one representative, each county, and then the—like the Alameda Mayors Conference, San Mateo County mayors conference, and they seemed to jog wherever they could. Solano County dropped out of the plan, others threatened to drop out when the vote came around, and each time one of them dropped out, they augmented with another group to keep a certain number, a corps. I had asked at one time originally from the city other than the time which was Fremont, asked the mayor, how did you decide who would be the representative to ABAG from the city of Fremont. He said there was only one guy who had enough time to spend 10 or 12 hours a week at meetings.

Mr. RYAN. So whoever volunteered?

Mr. MARR. That's it, basically.

Mr. RYAN. Now that's been my suspicion from the very beginning, that those who had that particular point of view would tend to volunteer, because as I have said, I've said it before, I'll say it again.

I've served on a city council, and you tend to volunteer, Well, who wants to handle the north sanitary coast district representation, who wants to? You go around a circle and whoever volunteers gets the job.

Mr. MARR. If you were to prepare the city and county rosters of their representatives prior to April, and after April when the actual vote came down on the ABAG plan, you'll find the majority of cities changed representatives, because they realized what the plan would mean, and the person who had been there for 2 or 3 years was totally in favor of the plan, but the rest of the council was against the plan, and they told him, well, you can't be in favor if you've got to vote against it, because the council says you must. In a couple of cases people said I can't, my conscience won't let me vote against this plan, I like it, and they changed council representatives. That particular person was voted out of office.

Mr. RYAN. Then, do you think that the consistency of the 36-member panel was, in the end, representative of the citizens of the bay area? That is what your presumption would be?

Mr. WILLIAMS. I don't basically think so, because I think what the COLAB, for example, is against the plan basically, but they felt that if we didn't adopt something along the lines we were going to get something shoved down our throat from the State that are even more severe.

Mr. RYAN. Where does that come from? I've heard that for 2 days now. It's either that or the Federals are saying that they don't know what we're talking about.

Mr. WILLIAMS. Well, that's all I heard in every meeting that I attended on the ABAG plan. If we don't do something, something's

going to be shoved down our throats that's going to be twice as distasteful. We have to come up with a plan.

Mr. MARR. There's a lot of letters that float around. One—he's got a copy from Dan Boatwright who's the chairman of House Ways and Means Committee in the Assembly, California. A lady by the name of Mary Nichols, who is with the State air resources board wrote a letter addressed to Ms. Diane Feinstein who was the chairman of the NTF. Specifically, Ms. Nichols states, "If State or local regional agencies—"

Mr. RYAN. You're quoting now from what?

Mr. MARR. From the letter from Daniel E. Boatwright, chairman of the House Ways and Means Committee addressed to Mr. Tom Quinn, chairman of the air resources board.

Mr. RYAN. He's quoting Ms. Nichols?

Mr. MARR. He's quoting the letter Ms. Nichols wrote to Ms. Feinstein.

Mr. RYAN. Do we have a copy of that letter?

Mr. HOLCOMB. I can get it for you, Mr. Ryan. We couldn't find it this morning in a hurry.

Mr. MARR. Basically, the letter states that:

Failure of regional local agencies to adopt a plan or its equivalent now will force the ARB, the air resources board, as a State agency ultimately responsible for meeting the requirements of the Clean Air Act to take whatever actions are within its authority to comply with the act and avoid imposition of Federal sanctions in California. If an inadequate plan is submitted to the ARB we will be compelled to nullify it to the extent necessary to meet the Federal mandate. However, the analysis contained in the draft AQMP, illustrates that numerous land use and transportation measures which can only be implemented by local government are reasonable and should be included in the regions AQMP. Given the Federal requirements that the plan must provide for the implementation of all reasonably available controls, it seems certain that any plan which does not include such locally adopted measures will result in the imposition of sanctions.

It's been bantered many, many times. After a while of hearing it all the time you—

Mr. RYAN. The staff has just shown me a letter dated February 6, 1978, letterheaded the Air Resources Board, Sacramento, Calif., signed by Ms. Mary Nichols to Dear Ms. Feinstein, chairperson of environmental management task force.

So without objection, we'll put this in the record at this point, that is, this particular letter, and the letter of Dan Boatwright, chairman of the assembly ways and means committee.

[The material follows:]

AIR RESOURCES BOARD,  
Sacramento, Calif., February 6, 1978.

Subject: Adoption of bay area draft AQMP.  
Ms. DIANNE FEINSTEIN,  
Chairperson, Environmental Management Task Force,  
Hotel Claremont, Berkeley, Calif.

DEAR Ms. FEINSTEIN: The Draft Air Quality Maintenance Plan (AQMP) portion of the Draft Environmental Management Plan for the San Francisco Bay Area represents the most comprehensive, sophisticated effort to solve an oxidant air quality problem ever undertaken. The Air Resources Board (ARB) will review the Draft AQMP in detail, and further specific comments will be provided before final adoption by local governments. To assist the EMTF in its deliberations prior to February 22, 1978, here are some general observations.

The 1977 amendments to the Clean Air Act have increased the importance of the Bay Area AQMP effort greatly. These amendments set out specific planning requirements and schedules for achieving federal air quality standards. In addi-



tion, the amendments require the application of severe federal sanctions for areas which do not comply with mandates for timely achievement and maintenance of federal standards. These include the withholding of federal funds for transportation projects other than those beneficial to air quality, the loss of EPA grant funds, a ban on the construction of major industrial pollution sources, and a wide range of restrictions on the use of other federal monies. The law does not appear to permit discretion in the application of these sanctions.

Congress understood clearly the serious implications of these requirements. As Senator Muskie commented in presenting the conference committee report to the Senate " \* \* \* this law will establish environmental protection—achievement of public health related air quality standards—as a price for new economic activity." (Congressional Record—Senate, August 4, 1977, P. S13697) The actions required to achieve healthy air in the Bay Area may not be easy, but the consequences of failure to act are now unacceptable for economic as well as public health reasons.

Failure of regional and local agencies to adopt the plan or its equivalent now will force the ARB, as the state agency ultimately responsible for meeting the requirements of the Clean Air Act, to take whatever actions are within its authority to comply with the Act and avoid imposition of federal sanctions in California. If an inadequate plan is submitted to the ARB, we will be compelled to modify it to the extent necessary to meet the federal mandate. However, the analysis contained in the draft AQMP illustrates that numerous land use and transportation measures which can only be implemented by local government are reasonable, and should be included in the region's AQMP. Given the federal requirements that the plan must provide for the implementation of all reasonably available controls it seems certain that any plan which does not include such locally adopted measures will result in the imposition of sanctions.

The responsibility for meeting the requirements of the Clean Air Act Amendments and for avoiding the sanctions of the Act now lies with the EMFT, ABAG, Metropolitan Transportation Commission, Bay Area Air Pollution Control District, and the individual cities and counties of the region. Fortunately, the Draft AQMP for the Bay Area already meets most of the new requirements and contains additional proposals which provide a viable framework to meet the remaining requirements. It is our view that adoption of all of the recommended control measures in the Draft AQMP (or alternative measures which achieve equivalent emissions reductions) will substantially satisfy the nonattainment and AQMP requirements for one pollutant, oxidant. The ARB supports the adoption of the AQMP on the schedule established by the EMFT and recommends that the activities to refine the oxidant strategy and develop additional measures needed to attain federal standards for carbon monoxide and particulate matter begin immediately. Only through such timely adoption will the region be able to develop the specific plan modifications necessary to comply with the Clean Air Act requirements for the 1979 nonattainment area plan.

In addition, the AQMP represents the air quality element and analysis for the 208 Areawide Wastewater Management Plan, the Water Supply Plan, and the Solid Waste Management Plan, and is needed for adoption of MTC's Regional Transportation Plan. Failure to adopt the AQMP will jeopardize the approval of all these plans because they cannot be judged as adequate in the absence of an AQMP which is concededly integral to all the other plans.

Although there has been vigorous local debate over the impacts of the plan and some organized interest groups are apparently working in concert to destroy or delay it completely, we believe responsible Bay Area officials should not be deterred. The plan shows that good air quality can be achieved in the Bay Area at a reasonable cost. The alternatives to local plan adoption are simply unacceptable: increased State or Federal intervention, funding cutoffs and a freeze on new industrial growth will be far more disruptive than anything the plan proposes.

We urge Bay Area officials to act promptly to adopt the basic provisions of the Draft AQMP and continue the excellent work of the EMFT by adding the necessary measures to meet the new Clean Air Act requirements.

Sincerely,

MARY D. NICHOLS, *Vice Chairman.*

ASSEMBLY, CALIFORNIA LEGISLATURE,  
COMMITTEE ON WAYS AND MEANS,  
February 16, 1978.

Re: adoption of the San Francisco Bay area draft, air quality maintenance plan (AQMP).

THOMAS QUINN,  
Chairman, Air Resources Board,  
State of California, Sacramento, Calif.

DEAR TOM: I, and the Bay Area in general, are becoming increasingly concerned about the impacts of complying with the federal Clean Air Act requirements on the San Francisco Bay Area. The Dow Chemical Company fiasco is all too fresh in my mind.

These problems aside, I am more than concerned about some language contained in a letter, dated February 6, 1978, on ARB letterhead and signed by Mary D. Nichols. I must ask if you were aware of this letter and if it represents state policy.

Specifically, in discussing the draft AQMP prepared by the Association of Bay Area Governments staff under a contract with the Environmental Protection Agency (EPA) executed prior to the 1977 amendments to the Clean Air Act, Ms. Nichols states:

Failure of regional and local agencies to adopt the plan or its equivalent now will force the ARB, as the state agency ultimately responsible for meeting the requirements of the Clean Air Act, to take whatever actions are within its authority to comply with the Act and avoid imposition of Federal sanctions in California. If an inadequate plan is submitted to the ARB, we will be compelled to modify it to the extent necessary to meet the federal mandate. However, the analysis contained in the draft AQMP illustrates that numerous land use and transportation measures which can only be implemented by local government are reasonable, and should be included in the region's AQMP. Given the federal requirements that the plan must provide for the implementation of all reasonably available controls, it seems certain that any plan which does not include such locally adopted measures will result in the imposition of sanctions.

There is a great deal that comes to mind as a result of this slightly amazing statement including, but not limited to, the following:

1. I thought it was the policy of the Clean Air Act and the State (per the recently released Urban Strategy Report) to have a "partnership" with local government and not a dictatorship;

2. How can it be suggested that land use controls with no impact on air quality for 10 years and, even then, such a marginal improvement of 3 percent according to a computer with a 20-50 percent error factor be anything but unreasonable;

3. The letter seems to totally ignore the 1977 Clean Air Act amendments concerning "reasonable future progress" and the deletion of land use controls as a strategy that EPA can mandate if rejected locally.

In my opinion, there is nothing in the Clean Air Act or the legislative charge of the Air Resources Board which justifies these tactics.

Sincerely,

DANIEL E. BOATWRIGHT.

Mr. MARR. Another place you might get the idea of what they were talking about, I had seen a copy of it and was trying to find it all week and couldn't. Mr. DeFalco had requested from—no, I'm sorry, Revan Trantor who is the executive director of ABAG, had requested from Mr. DeFalco's legal opinion on the ability of the Environmental Protection Agency to place sanctions, and that was to say the least, a very scary letter, because he not only talked about the Environmental Protection Agency sanctions, but Department of Transportation sanctions and right down the line.

Mr. RYAN. So your contention is there is a distinct weakness in the present legislation which does not allow for any kind of thorough representational cross section to be appointed to make an environ-



mental management plan in a region. I would presume that might be the same problem anywhere in the country.

Mr. MARR. Oh, yes.

Mr. RYAN. And I would think then that one of the conclusions which we might consider in the subcommittee would be a recommendation as a result of these hearings that there be additional legislation spelling out exactly how that group is to be created, although I don't know, from what Mr. Smith and the EPA said that, it may be too late in the sense that they won't be creating any more.

Mr. WILLIAMS. Could you give me for my own satisfaction any explanation as to why the EPA standards seem not to be uniformly enforced across the Nation, because we seem to be the frontrunner in just about every new idea and every scheme or plan that comes up, we have to be the—

Mr. RYAN. Congressman Cunningham just said they volunteered.

Mr. WILLIAMS. I wish that we had the same standards though in California.

Mr. RYAN. Let me ask a final question here. Knowing what you know now, do you believe that for the present plan submitted, if you believe there were no compulsion behind you, would you still support it?

Mr. HOLCOMB. No. Because it would not—the present plan would not—from the operating engineer's standpoint, we voted for the plan simply because it stated that we had to do something to comply with the Federal guidelines, and that's why we voted. If there were no Federal guidelines or if we could have done it another way with a little more economic stability placed into it, we would have gone that way rather than the plan we have. We took the position it was the best we could do under the circumstances.

Mr. WILLIAMS. My feelings are the same on the basis that, and the reason why I'm still against the plan basically, because it's not going to provide any more work in the industrial field at all, and ultimately that's going to carry over and be affecting the residential and commercial developers.

Mr. RYAN. Do you think it will have a substantial effect on cleaning up the air and the water in the bay area? Besides your unions and your assignment and your responsibility as a member of a union and a leader of a union, you are also a citizen here and are subject to the same problems everybody else has.

Mr. MARR. I go back to what I said earlier, Mr. Ryan, that it doesn't do anything for the industry that's here. It just locks in anybody coming in which would have to meet environmental standards. And that's what I say; it would seem to me that it would take \$41½ million to plan, would have been better to take that \$41½ million in the form of low-interest loans to encourage a guy to upgrade his plant to meet the environmental standards. It would have been a lot longer down the road to—

Mr. RYAN. So Mr. Smith's comment about the failure of some areas to move on this is true, and there are others that perhaps slow down to a walk rather than a run. What kind of economic impact are we liable to have here, unless the rest of the country complies, because of what you've just said?

Mr. MARR. Basically, you're going to see all the industry moving to another continent someplace to get away from the environmental laws.

Mr. WILLIAMS. My particular local union's a good example of that. They've been unemployed between 50 and 75 percent over the last 3 years.

Mr. RYAN. These are the sheetmetal workers?

Mr. WILLIAMS. No, the steamfitters.

Mr. RYAN. Steamfitters, I'm sorry.

Mr. WILLIAMS. And I think that the other building trades will have possibly 1 year to 1½ years more work, because there is heavy development in the housing and residential fields at the present time. However, that's going to catch up with them eventually, and there's not going to be this demand for homes and what have you, especially if the State implementation plan is initiated by the present administration where we won't have any expansion outside the city limits. Leapfrog development is what they're trying to get away from, but as I said earlier, I think if we follow this philosophy we would never reach the west coast; we'd still be Thirteen Colonies back on the east coast somewhere.

Mr. RYAN. You think then that unless this plan is implemented throughout the country as we have done here, it could have serious negative economic impact?

Mr. HOLCOMB. At the same time Mr. Ryan. In other words, if they're going to put a law into effect, you put it into effect all at once.

Mr. MARR. So at least we'll be at the bottom of the run with everybody else.

Mr. RYAN. The staff points out here, it's on page 2 of that letter, she says that: "The analysis contained in the draft AQMP," I'm reading on page 2 of the letter, "can only be implemented—illustrates that numerous land-use and transportation measures which can only be implemented by local government are reasonable and should be included."

Now this is the vice chairman of the air resources board, and Mrs. Evans who is here today, unless I'm wrong, said she didn't think it was a good idea, so perhaps there is some lack of coordination there. At least there is not any unanimity of opinion on the air resources board about that particular element.

Mr. WILLIAMS. Had the land use controls board committed in the plan, and this is by their own calculations, would really improve the air quality by 4 to 7 percent by the year 2000 as I recall, and then after that particular time, we would have to change the standards or go to some more controls, because of the fact that the population would be moving into the area. So for land-use controls to be implemented into the plan for only a 4 to 5, or 6, or 7, whatever percentage, it would have been an improvement on the air quality.

Mr. RYAN. Is it fair to sum up your position, if you can sum up anything in a few words as complicated as this; (1) You object to the manner in which the incident was put together being nonrepresentative of labor as well as other groups—

Mr. MARR. That's correct.

Mr. RYAN. Two, you believe that unless the law is implemented across the country that there could be serious negative economic impact—



Mr. WILLIAMS. Most assuredly.

Mr. RYAN [continuing]. In the bay area by starting even the present plan; and (3) you support the present plan only because you feel this is the least harmful approach that you could find, is that fair enough?

Mr. HOLCOMB. And someone holding a 2 by 4 behind your head.

Mr. RYAN. Or perhaps a big pipe wrench.

Thank you very much. May we now have the business community; Mr. Paul Shepherd, Mr. William Hern, and Mr. F. E. Wilts.

[Witnesses sworn.]

Mr. RYAN. If you would give your name for the record? Mr. Wilts? You're Mr. Hern?

Mr. HERN. I'm Mr. Hern. Mr. Wilts is not here.

Mr. RYAN. All right. Mr. Hern, why don't you go first, and then we'll have Mr. Shepherd.

#### STATEMENT OF WILLIAM HERN, EXECUTIVE DIRECTOR, PENINSULA MANUFACTURING ASSOCIATION

Mr. HERN. I'd like to read this statement I presented—some of the comments based upon the discussion we just had with the representatives of organized labor. And we agree, by the way, with many of the things they said, particularly in terms of representation on the MTF.

Thank you for the opportunity to present our comments about the environmental management plan for the San Francisco Bay region. We regret our inability to comply with your request that a copy of our statement be supplied to your subcommittee several days in advance of the hearing, but we didn't receive your invitation to appear until June 19, 1978, and so simply did not have time to prepare and submit a statement within the suggested timeframe. Further on June 6, 1978, the California electorate made a decision on financing of local government which we are sure you're all well aware has overshadowed most other issues at this time.

Our exposure to the process of the development of an environmental management plan for the bay area began something over 2 years ago when we learned of the EPA grant to ABAG of \$4½ million to accomplish this purpose. We secured speakers from ABAG who described the work plan to be followed and volunteered members of PMA for the advisory committees to the task force in the area of air pollution, water pollution, and solid waste elements of the plan. We received progress reports from those individuals and members of the ABAG staff, and attended the ABAG public meetings on the work plan sponsored by ABAG at various locations on the peninsula.

We were appalled at the lack of public interest including the business and industrial community in this program. And, we're equally concerned about the disinterest of the staff preparing this plan in the views of those from business and industrial community who did involve themselves in the process. We received the staff version of the draft environmental plan in late January as did all ABAG members, plus interested private sector organizations, at which point the entire climate changed as witness the attendance and views expressed at the late January and early February 1978 public hearings held at various points in the bay area.

We appeared at the ABAG environmental management task force public hearing on February 1, 1978, in San Jose, and presented the attached statement. Subsequent to that hearing, several of our technical committees sent to ABAG written comments on the draft plan. We monitored the plan's revision at the ABAG EMTF level, the ABAG regional planning committee level, and at the ABAG executive board level, and each time made some additional comments on the revised plan.

Finally, on June 7, 1978, by a letter, we advised the president of ABAG—Diridon, on our support of the plan as adopted by the executive board, and urged its adoption by the general assembly which was done on June 10, 1978. In our letter of June 7, 1978, copy attached, we once again expressed our concern about the possible unequal implementation of the Clean Air Act nationally by the Environmental Protection Agency, which concerns also mentioned in the approved environmental management plan.

We went on to offer our support in forestalling any efforts by State agencies and, indeed, the Environmental Protection Agency to return some elements to the plan which have been evaluated and rejected during the ABAG developmental process of the environmental management plan. We pointed out that the plan in many parts was the result of effective compromises, which would be undone if the reviewing agencies were to add further restrictions to the plan that had been discarded in the development process.

So, our current attitude is support for the EMP if it is not changed in any major way by the reviewing agencies, and if there is equal implementation of this plan as appropriate throughout the United States. Should this not occur, then once again, California, and especially the bay area, will be competitively disadvantaged against others in this country and abroad who do not have to suffer under the rules and regulations enforced in this area. We know that this can only result in ever-increasing number of employers already in the area determining to leave, and those who might have elected to—deciding to go elsewhere.

In regard to your question as to how the Federal environmental control requirements should be changed, we suggest that they should be brought into the real world. We believe that standards should not be set, unless they are realistically attainable in established timeframes. Had this been done early on, then there would not have been the need for applications for time extensions grudgingly acceded to by the EPA and the Congress.

We urge that any review of current standards or the establishment of new ones must take fully into account their attainability in the prescribed time, as well as the economic costs and consequences of the required action. We have asked our technical committees to develop a position paper responsive to your question as to how Federal environmental control requirements should be specifically changed, and would expect to send that along to you in the near future.

In regard to Congressman Cunningham's comment that we volunteer, we don't. We are volunteered by others to be out in front. This is not the desire, in my opinion, of the great bulk of the people in the bay area. We want to continue to live in a nice place, but the volunteering, believe me, is not done by the people of the bay area. It's done,



in many cases, by its elected officials, but in more cases by its appointed officials and its bureaucrats.

We, too, felt badly. I should say that I guess the business and industrial community came out better than organized labor. We had 2 on the 46; 1 from the industrial community and 1 from the building industry. My impression is that the ABAG executive board made the decision as to who was to be on the EMTF. It was also my impression that most of the people appointed were recommended by the staff of ABAG. Most, I'd say, over half of them were elected officials. The balance were potpourri, all kinds of interest groups in the bay area. Our representatives who volunteered for the task force in the individual areas came back with the same story you heard from labor. They didn't listen to us. They didn't even care what we had to say. If the staff didn't agree with what they had to say, then the staff either outvoted them by lobbying clear through the meeting until everybody left in disgust, or in the alternative, the people who believed more strongly, environmental controls and no-growth than we do, outvoted them. Over time, our people just got tired. They are businessmen, they are not staff people. They're there on their own time, taking time away from their own businesses to try to help.

As you note from our statement, we didn't announce until June 7 that we would support the EMP. We had great misgivings. We still do. In answer to the question you might ask that you asked labor: Would we support it if we didn't believe that either the State or the Federal Government would impose something on it? No, we would not. And I wouldn't say any one person said it, maybe Ms. Nichols did, I wouldn't be surprised if she did, but it was more rumors between the staffs which then got out to the public, and as one of these gentlemen said, if you hear it often enough, you tend to believe it's true.

And of course, in that area by the way, we've seen the Federal Government come in with mandates. It's not impossible for the Federal Government to preempt and it's not impossible for the State government to preempt whatever's left. So, we weren't too surprised that that kind of preemption might be possible.

Mr. RYAN. Thank you, Mr. Hern, for a very comprehensive and excellent statement.

Mr. Shepherd?

#### STATEMENT OF PAUL SHEPHERD, NATIONAL ASSOCIATION OF INDUSTRIAL OFFICE PARKS

Mr. SHEPHERD. I'll just read some highlights from our written testimony which you have.

We are practitioners participating on a day-by-day basis in the business of locating new offices and industry in the San Francisco Bay area. We have several observations regarding the process that was utilized in developing the EMP.

The air quality maintenance plan portion of the environmental management plan must now return to a special purpose arm of government, the California Air Resources Board, in order to be incorporated into the State implementation plan. It is unclear as to whether the air resources board will significantly modify ABAG's plan; it is equally unclear to us as the results of the final review by EPA. Each level of government threatens the lower level with denial of EMP approval

by a remote government level unless certain regulations are incorporated, creating an atmosphere of nonresponsibility with reference to a third-party authority.

Lack of private sector role in the ABAG plan: ABAG attempted to create a broad representative group of 45 individuals called the environmental management task force, to guide staff in the formulation of the EMP. It is our view that this group represented local government first and environmental interest second.

There was no direct representation by an individual working directly for a corporation in land development or manufacturing. This representation was limited to two associations which under difficult circumstances performed admirably. ABAG attempted to broaden its base by forming several technical advisory committees into which the private sector seriously attempted to play a meaningful role. However, as it developed, these TAC's were advisory to ABAG staff only and met only as requested by ABAG staff, which was usually for 2 or 3 hours every 3 or 4 months. Thus, any representation that the ABAG plan enjoyed broadly based input from the private sector is a myth.

*Trade-off policy.*—This appears to be the policy that is currently operative. Government is creating the rules, but is not assisting the private sector in accomplishing solutions. As we understand it, this policy means that private industry must purchase pollution credits from other industries, thereby closing the other industry, or by paying for the cleanup efforts of this other industry. In our view, this could only work in cases involving very high income operations wherein this very inordinate expense could somehow be economically justified. Of course, this is unfair of the small operation or even the marginal larger operation. The biggest problem could be in finding people technically qualified to understand the compliance jargon and establish a plan that would finally be approved by the reactive air pollution people. Also, it is unclear to us how the AQMP will incorporate this present trade-off policy.

What this policy has done, ironically is to create pollution rights which have economic value. It deters industry, which is polluting, from any desire for cleaning up, because they have something they can sell. So the whole policy works against the objective of clean air and clear water.

*Cost.*—The implementation of the environmental management plan will cost millions of dollars annually; nobody's quite sure how much although EPA's regional administrator, Paul DeFalco, was quoted at an ABAG meeting as saying that: "It would have severe effects on the economy for the San Francisco region." The result of these costs will be a combination of increased taxes—unemployment, as you've heard from the labor representatives—and additional costs to the consumer that are passed on by private industry. Clearly, the process in which we find ourselves should be specifically cognizant of these costs, rather than simply making passing references.

Congress must recognize the need for procedures that stimulate capital investment and employment by encouraging new industrial plants, rather than discouraging them. Unfortunately, most of this testimony in this manner tends to talk about heavy industry, Dow Chemical and oil refineries. They are not the only industries affected. The light industries, the electronic industries—the ones that every-



body seems to want—they're also affected. That very seldom appears in discussions of these matters and that, of course, is the type of industry that most of our industrial parks are involved in locating, light industry and distribution facilities. So we are concerned—we don't know where to go, what the rules are if we want to start a new industrial park. They seem to vary from day to day.

We have our series of recommendations that, as others have suggested, the Federal Clean Air standards be modified so as not to be so strictly determined by reasons of unsubstantiated and assumed health impacts. Otherwise, the whole EMP procedure is a waste of time. And that's basically our point about this EMP procedure. Millions of dollars have been spent for a plan which is completely subject now to EPA air quality control—superseding the law—and the whole thing has been a grand waste of time. A lot of people have spent a great deal of time and money to come up with it, but as far as industrial location is concerned, it has no meaning at all, because the air quality control board will make the decisions.

Mr. RYAN. Thank you very much, Mr. Shepherd. I think that between the two of you, you've answered a good many questions that I asked of the labor group, but I'd like you to elaborate, if you could, on this subject: One point on the trade-off policy. This is new, and I would like for you to explain that in a little bit more detail if you could. What is the equity that is involved here?

Mr. SHEPHERD. Well, if you are an industry planning to come in, and, this was supposed to be a method to allow a new polluting industry to come in, such as a refinery, the way that you could come in would be to buy up other pollution. The theory being that if this new polluter came in, the net pollution in the total region would not be increased by removing existing polluters, and from the Ma-and-Pop drycleaning establishment to existing oil refineries or powerplants.

Mr. RYAN. How do you buy in? I'm not quite sure that I—

Mr. SHEPHERD. You buy in by being willing to shut them down, pay them off.

Mr. RYAN. Suppose I have a national chain of drycleaning plants throughout the country, and operate a very large wholesale operation and need a plant of say 50,000 square feet in South San Francisco at Cabot, Cabot & Forbes.

Mr. SHEPHERD. All right.

Mr. RYAN. All right. I want to move on and long-term lease the property, and recognizing the need that there would be pollutants and so on in the work, I'm prepared to conform to whatever the standards are in the area, of course, but how would I be affected?

Mr. SHEPHERD. On your own initiative, you must submit an application which demonstrates that you have cleaned up, or shut down, or eliminated as much pollution as you're going to contribute. That might mean buying equipment for somebody else. You might be buying it for your competitor.

Mr. RYAN. Who do you have to prove it to?

Mr. SHEPHERD. The air quality control board.

Mr. RYAN. The State air quality control board?

Mr. SHEPHERD. Well, a regional in this case, subject to ARB.

Mr. RYAN. And they're the ones who require that you do that?

Mr. SHEPHERD. Yes, this is supposed to be a liberal policy which was developed in this—

Mr. RYAN. Is it a Federal law?

Mr. SHEPHERD. This was developed by this regional administrator in this region, and it's supposed to be a liberalization by the EPA.

Mr. RYAN. You say regional administrator of the EPA?

Mr. SHEPHERD. Yes. It was later adopted by the—I believe nationally, federally by the EPA, but it creates a sense as I say of pollution rights which have economic value.

Mr. RYAN. Existing plans. Now what you do is keep it existing so you can sell it.

Mr. SHEPHERD. Exactly.

Mr. HERN. There's been another suggestion in that area, but I am not disagreeing with anything Mr. Shepherd said, but you could bank your—the diminution and materials that are contrary to the regulations, that you could put in some new equipment which would diminish your emissions. You could put that in the bank, and then if you or your neighbor wanted to do something else, and I think that came out of southern California, and I believe it was sponsored by the local air pollution board down there.

I don't know whether that's still possible. I guess if Paul says so, the other one must be, but these have been the kinds of discussions of how new industry could come in, but what you say could be true. You could just sit there and—until the right time, and a guy came along and—

Mr. RYAN. Still—

Mr. SHEPHERD. Sure, it's absolutely current to anybody cleaning up his own facility. Their intent was good, but they don't understand how to—

Mr. RYAN. Well, their intent was good in trying to charge money for parking lots, too, and they changed their mind after enough Congressmen were informed, and that's the purpose of this investigation, to inquire into the weaknesses so that the thing is changed around. If that has any kind of national implications, that's got to be changed.

Mr. HERN. Congressman, there's one area I would hope your subcommittee might get for some of us that we've never been able to get from anybody else, at least I haven't been able to. We have been told, and you'll see from the chart up there, back in April, the magic day that the general assembly had to pass something, well, the ABAG Executive Board told them to go to heck, and then suddenly got the postponement to June 10. I just read SCAG's testimony, and they're not going to do anything until November 1. They're not even going to do as much on November 1 as we have already done.

Mr. RYAN. Now we have the EPA man himself saying that some of them haven't even complied at all. And the other thing I heard was that we're way out in front.

What scares the heck out of me, I don't like being that far out in front. Perhaps, if we ever go through this kind of charade again, at least the ground rules would be well understood by everybody.

Why did ABAG have apparently a different time schedule and different harassment levels than anybody else in the United States? Are we that much worse than anybody else in the United States, or was it just an eagerness to get out in front again?



I think with the means of some pretty careful study, because it's obvious that the basic legislation to allow local people, locally elected people to have control of the means by which we try to clean up our air and water is still an excellent principle. Somewhere along the line it slipped between the cracks.

And to some extent, I can't measure the amount, but I think that the objections that are raised by labor and by business today, this afternoon, are well made and very serious.

You cannot have a healthy environment for people without having some kind of balance there, and if there is pollution of water and air, there's also pollution of jobs, and job pollution is a current problem in the bay area as well as elsewhere, and they've been talking about job pollution I suppose; we're going to talk about water and air, and that has to be considered.

I appreciate very much your coming, Mr. Cunningham. I want to thank you all for coming and for having the patience to come here on a Saturday afternoon. I would like to point out that, well, first of all, we have several groups who have submitted statements: Regional Citizens Forum; Political Action Coalition for the Environment; Association of Bay Area Recycling Groups and Environmentalists [ABARGE]; and testimony of Mr. Frank Wilts of the San Leandro Manufacturers' Association. They'll all be included in the record. They've submitted statements, but haven't come themselves.

In any case, I want to thank you all for being here, and for submitting statements, or for making the comments that you have. You've certainly been extremely useful to the subcommittee, and I can guarantee that the report will reflect all the comments that have been made here, and the recommendation I think will improve the situation, if we can, as this thing moves along nationally.

Finally, I think on a note of regret, I would like to point out that there is only one paper in the entire San Francisco Bay area that's been represented in this hearing for the 2 days.

I'm rather pleased to say it is the San Mateo Times in San Mateo County, and perhaps it's because of the coverage, that there's been more feistiness in San Mateo County regarding this plan than any other county in the bay area, because they're better informed; but I point this out publicly because I think those of you who are here and who do represent special interests and who those special interests are need to recognize the fact the public is not sufficiently aware of what's going on, and just as you can raise heck with the Federal Government because we come and ask you, I think you should make some kind of comments to the newspapers that are involved.

They're not here. Any time a man can come from Washington and say that within the next 5 to 7 years there will be an expenditure of \$3 billion to have a particular unknown economic effect in the bay area that will massively change the way every person in the bay area lives and breathes, and not have it covered, have your comments covered, so the people can understand what your point of view is, we suffer from a massive lack of communication ability in the bay area, and part of the fault lies I suppose in the fact that the chairman of the subcommittee comes from this area, and as a consequence, of course—and so on.

If you were having the hearings in Cincinnati, I'm certain that the coverage would be pretty heavy. This is part of the problem.

I think if you have a responsibility, all of you, to make known to the publishers and editors of the papers that are involved, your dissatisfaction with their failure to communicate what I believe to be one of the most crucial problems now facing us in the bay area. If it's true that we are that far in front, we need to be extremely cautious about how far and how fast we go.

Thank you very much for coming, and if there are no further—

A VOICE FROM AUDIENCE. Excuse me, I'm from the coalition and I notice that we are not on the agenda—

Mr. RYAN. I think in view of the time and the—of the committee we will have to call it—except for COLAB. You have submitted a written statement?

A VOICE FROM AUDIENCE. Yes.

Mr. RYAN. Would you mind then submitting anything further you have to say as a result of the hearings today and yesterday—would you mind submitting it in writing, because I can only hold this committee here as long as they can stay.

I'm committed myself almost immediately, and Mr. Cunningham is, too, and since that's the reason for the hearing, I think that takes care of the reason for getting rid of it.

Could you submit, then, a supplementary statement for the record, if you wish, and it will be included in the record and be made a part of it? Thank you.

With that I think we will adjourn.

[Whereupon, at 2:12 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



# APPENDIXES

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APPENDIX 1.—STATEMENTS SUBMITTED FOR THE RECORD

## POSITION STATEMENT

ON

AIR QUALITY MAINTENANCE PLAN

(AQMP)

Developed By

BAY AREA LUNG ASSOCIATIONS

Alameda

San Francisco

Contra Costa - Solano

Redwood Empire

San Mateo

Santa Clara - San Benito

January 1978

The American Lung Association, as a health organization, is deeply concerned about the progress made toward the attainment and maintenance of the primary air quality standards set to protect health. Many of these standards protect the health of people with lung disease. Substantial time and effort has gone into the development of the Draft Environmental Management Plan and its component, the Air Quality Maintenance Plan. The Lung Association Affiliates in the Bay Area would like to express their appreciation for the opportunity to participate on the EMTF and Air Quality Maintenance Plan--Technical Advisory Committee.

Background:

In 1970 the Federal Clean Air Act was passed. According to provisions in the Act, ambient air quality standards were set for the protection of public health and welfare. Standards have been set for total suspended particulate matter (TSP), sulfur dioxide ( $\text{SO}_2$ ), carbon monoxide (CO), hydrocarbons (HC), nitrogen dioxide ( $\text{NO}_2$ ), and photochemical oxidants. The Act gives the states responsibility for developing and submitting state implementation plans (SIP) to EPA that contain measures to attain and maintain national ambient air quality standards. The first California SIP, submitted to the EPA in February, 1972, was found to be deficient because it did not include adequate control strategies for attaining and maintaining air quality standards. As a result of several court suits, EPA required California to submit a transportation control plan (TCP) to correct some of the inadequacies of the SIP. The state finally exercised its option to prepare a TCP and responsibility for the plan for the San Francisco Bay Area which was delegated to the Metropolitan Transportation Commission.



A court order led to EPA requirements for the identification of air quality maintenance areas--areas that have the potential for long term air pollution problems. The San Francisco Bay Area was identified as such an area in June, 1974, by the Air Resources Board and in September, 1975, by the EPA. EPA regulations require the development of an air quality maintenance plan (AQMP) for each area. The AQMP is to develop long-term control strategies for attaining and maintaining air quality standards. This plan will include land use and transportation control measures and programs for enforcement.

In mid-1975, the ARB established the Bay Area Air Quality Maintenance Plan - Policy Task Force to oversee development of the Plan. The Association of Bay Area Governments had formed the Environmental Management Task Force (EMTF) to develop water quality programs under the Federal Water Pollution Control Act. These two Task Forces were combined by a resolution from the AQMP - Policy Task Force in January 1976, leading to the integration of water quality and air quality planning programs under the EMTF.

The AQMP will be developed by a joint technical staff led by ABAG with support from the Bay Area Air Pollution Control District, the Metropolitan Transportation Commission, and the Air Resources Board.

In preparing the AQMP for the San Francisco Bay Area, there are four air pollutants of interest: suspended particulates, carbon monoxide, sulfur dioxide, and oxidant. The standards for particulates and oxidant are violated most often in the Livermore and Santa Clara valleys, although oxidant problems occur throughout the region. Sulfur dioxide problems exist mainly in the Carquinez Straits and carbon monoxide problems are most severe in San Jose.

The AQMP recommendations will require action by all levels of government to control virtually all sources of air pollution. The plan recommendations are divided into four categories:

- 1) control over stationary sources
- 2) control over mobile sources, primarily cars, but other vehicles as well
- 3) transportation controls
- 4) land use changes

#### Health Reasons for Attainment and Maintenance of Air Quality Standards

Exposure to air pollution above ambient air quality standards is associated with a significant disease excess that, in its cumulative impact, represents a very substantial burden. Hydrocarbons combine with nitrogen oxides to produce ozone and other noxious photochemical oxidants. In addition to the obvious and temporary effects of oxidants--the burning eyes, throat irritation, coughing, and shortness of breath--there are potentially more serious and long-lasting ones. Scientific evidence indicates that ozone increases susceptibility to respiratory infections and may induce chronic respiratory disease. In combination with sulfur dioxide, the adverse effects each has on the lungs are intensified.

Nitrogen oxides, too, heighten vulnerability to respiratory infection. These pollutants also aggravate existing respiratory disease and offer the possibility of chronic respiratory impairment. Absorbed on aerosols, their effects are strengthened for the worse. Carbon monoxide cuts down the body's supply of oxygen. As a result, it can affect behavior in normal people, aggravate cardiovascular diseases and decrease the chances of survival of those who suffer from some of these heart ailments.



Sulfur oxides and their companions, sulfuric acid and particulates, have long been associated with the infamous air pollution episodes of Sonora, Meuse Valley, and London. Sulfur dioxide alone is known to increase airway resistance and thus make breathing difficult. In combination with aerosol particulates, it interferes with the lungs' defenses. Studies point to significant effects on illness and death. Small size aerosols are a major concern. They present a special danger because they can be inhaled deeply into the vulnerable parts of the lungs and carry noxious gases with them.

Children, the elderly, all asthmatics and persons with chronic respiratory and heart disease are particularly susceptible to air pollution. These groups comprise a substantial segment of the population. Generally, only the more severely ill or impaired individuals in these population groups are at greatest risk of ill effects from minor excursions above the air quality standards, but because of the large population of susceptibles, even a small proportion of afflicted adds up to a large public health burden. The National Academy of Sciences estimates that the proportion of susceptibles within the population to be approximately 20%.

#### The Air Quality Maintenance Plan

The goal of the AQMP is attainment and maintenance of State and Federal air quality standards as expeditiously as practicable. While certain Federal air quality standards are being met in the San Francisco Bay Area, other principal standards are not. The standards are based on the protection of public health. Of particular concern to the Lung Association are the following pollutants: suspended particulate matter, carbon monoxide, sulfur dioxide, and

photochemical oxidant. The Draft Recommendations for the Air Quality Maintenance Plan address only one pollutant--photochemical oxidant. This is unacceptable.

The San Francisco Bay Air Basin is a non-attainment area for carbon monoxide and particulate, yet the Draft Recommendations do not include control measures directed toward attainment of these standards. Staff proposes this be done through the continuing planning process since violations of the carbon monoxide and particulate standards are limited to a few "hot spots" and are not seen as a region-wide problem. San Jose is such a "hot spot" with the Federal eight-hour average standard for carbon monoxide violated 61 days in 1976. The Clean Air Act calls for attainment of Federal air quality standards by 1982 with the exception of photochemical oxidant and carbon monoxide where extensions are available under certain conditions. It is our understanding that a good faith effort must be shown to receive an extension beyond 1982. The Draft Recommendations appear to fall short. Mobile sources account for 90% of the carbon monoxide emissions. These emissions can be substantially reduced by the adoption and implementation of more stringent exhaust emission standards and through transportation actions to reduce vehicle use. For example, General Policy 3, Action 13 under the AQMP recommendations, the implementation of an auto control zone in the Central Business District of San Francisco, is listed as a control measure for the reduction of hydrocarbons. Action 13 is also projected to have considerable impact on the reduction of CO emissions because of reduced vehicle congestion. Action 13 should be expanded as an initial control measure in an overall strategy to reduce CO emissions to include other CO "hot spots" such as San Jose.



Federal and State standards for suspended particulate matter have been exceeded in portions of the San Francisco Bay region. The Federal standard was exceeded in Livermore in both 1975 and 1976. The state standard was exceeded in Livermore 41% of the sampling days and in San Jose on 20% of the sampling days. The standard is expressed as an annual geometric mean and the values are given in micrograms per cubic meter, which is a measure of weight. The most respirable particles are very small with diameters of 0.1 - 0.5 microns and their contribution to the total weight is small in relationship to their significance. The respirable size particle is not adequately addressed in current ambient air quality standards. However, based on violations of current standards we would recommend initial control measures be included in the AQMP.

The San Francisco Bay Area has been declared an attainment area for sulfur dioxide. We are concerned, however, that the primary air quality standard for sulfur dioxide does not necessarily offer health protection against atmospheric transformation products such as sulfates and sulfuric acid aerosols. There is considerable evidence that some of these transformation products are biologically more reactive than the parent compound.

Sulfur dioxide emissions can be expected to increase substantially with regionwide curtailment of natural gas. Emissions can be expected to increase also, particularly in the industrialized areas as more fuel oil begins to be used in the Bay Area. The use of fuel oil can have significant impact on sulfur dioxide emissions dependent upon the availability of low sulfur fuel oil.

Based upon these factors, we would encourage the AQMP to include adoption of control measures directed at the maintenance of the sulfur dioxide standard.

The AQMP includes measures for the control of hydrocarbon emissions from stationary sources. Stationary sources also account for 70% of the anthropogenic particulates and 80 - 90% of the sulfur dioxide emissions. General Policy #1, control of stationary sources, should be expanded to include measures for the control of particulate and sulfur dioxide emissions--specifically, actions 3 and 4 requiring Best Available Control Technology (BACT) and New Sources Review (NSR). The requirement of BACT for new and existing stationary sources is most important. We suggest a further definition of "lowest achievable emission rate" to avoid interpretation problems. The definition should reflect the best performance of existing technology for the type of source. The concept of new source review is an excellent strategy for the reduction of emissions. An important component of NSR is the use of an emissions offset policy. The offset policy becomes important when a proposed source using BACT will still cause significant emissions that interfere with the attainment or maintenance of standards. To implement the emission offset requirements, we feel very strongly that a net reduction in emissions must be the prime criterion. The reduction must be sufficiently greater than new emissions to represent substantial progress towards attainment of the relevant air quality standard. We are not advocating a specific ratio but suggest flexibility so that greater percentage offsets are required for pollutants causing more serious health effects and ones for which offset candidates are more readily available.



The proposed mobile source controls--more stringent vehicle exhaust emission controls and an inspection/maintenance program--will yield significant reductions in hydrocarbon emissions. Even with the implementation of the proposed stationary source controls and mobile source controls, the standards will not be met and our air will not be safe to breathe. Transportation controls and land use measures are of extreme importance in an overall strategy to meet the air quality standards. A major source of the dangers to public health in the air over our urban and suburban areas is a result of the necessity for the use of automotive transportation caused by a pattern of land development over the past 30 years--the development of suburban areas almost devoid of public transportation.

The reduction of auto related pollution, though vital, cannot by itself solve the health problems the imbalance our nation's transportation system creates. Emission control laws cannot provide answers to such problems as these, for example:

- 1) finding sufficient fuel for an ever expanding automotive population
- 2) curbing urban sprawl
- 3) land demand for roadways and parking facilities
- 4) massive traffic congestion

Decisions made regarding transportation controls are a first step towards redressing the imbalance in the current transportation pattern that have grave consequences for our population.

With reference to the proposed transportation controls contained in Policy III, Action 11, the provision for additional transit service should receive a high

priority. To begin to solve the interrelated problems of land use and energy, a transportation policy must be established and a comprehensive transportation system initiated. Action 11 in addition to Action 12, the provision for increased development of alternate modes, should be instituted at approximately the same time as Actions 8, 9, 10, and 13, which act as disincentives to the use of the private auto to offset any regressive economic impacts associated with the disincentives. In diverting auto users to transit, adequate vehicular capacity, provisions for travel times comparable to the automobile at a cost to the rider that is attractive relative to the cost of driving must be considered. Existing transit systems do not have the vehicular capacity to achieve large reductions in auto use. Achieving a 10-20% reduction in auto use could require expansion of existing bus fleets of at least 50%.

A final comment regarding increased transit services--a suitable combination of modes must be found for each situation. The Lung Association recommends the inclusion of rail transit for consideration in Action 11 as a clean and efficient form of transit. Of prime concern to the Lung Association in the area of rail transit is the continuation of Southern Pacific's Peninsula commute service. The commute service is an integral part of the transit services on the Peninsula. There have been repeated attempts by SP to abandon its service. We strongly recommend the AQMP address the need for continuing and upgrading the Peninsula commute service.

Transportation cannot be considered in a vacuum. Transportation is inextricably tied to energy use-- and the energy shortage. It is inevitably tied to economies, not only by the obvious costs of operating a vehicle but also by the



less obvious costs of a lack of adequate transport facilities. Transportation is also tied closely to land use.

Until recently, the United States had shown little concern for land use. Today we realize that land use issues lie at the heart of many of our most critical environmental and social concerns. There are a number of reasons why we are now confronted with the need to structure effective and realistic land use programs: We have undergone an enormous population growth with a concomitant increase in physical mobility; and this nation's social and economic structure has been tied directly to private acquisition of land and to the importance of land as an economic commodity. Certain governmental activities since World War II have had substantial impact on this country's accommodation to growth, including activities based on the Federal Housing Administration's construction program and the Federal Aid Highway Act of 1956, which began the 41,000 mile national system of highways.

Land use decisions will have widespread effects on the quality of the whole human environment--the protection of wildlife and natural cover, the provision for recreational opportunities, the prevention of air and water pollution, the enhancement of human health and welfare, and the furtherance of the economic well-being of the country.

The recommendations in the AQMP for development and land use management will play an important role in the overall strategy for clean air. We strongly agree with the concept of compact development which emphasized reduced auto dependency. In addition we support the inclusion of indirect source review--that is, review of facilities which themselves do not directly pollute

but may attract large numbers of mobile sources. The preconstruction or premodification review of indirect sources, including shopping centers, industrial office complexes, road or highway projects, and any measure for the management of parking supplies can have a significant impact upon local air quality improvement.

Our final comments pertain to local general plans. Although the state may mandate certain elements in local plans, air quality elements are not now required. We urge inclusion in the AQMP of policy recommending enabling legislation for the development of an air quality element in local plans.

#### Social and Economic Considerations

The costs of the trade-offs between meeting the federal air quality standards and health in terms of human suffering can only be surmised; the cost in dollars can be documented to some extent. Estimates for the total national costs of sickness and death for disease associated with the respiratory system, specifically respiratory cancer, chronic and acute bronchitis, pneumonia, emphysema, asthma, and the common cold range from \$4.6 to \$12.6 billion.

Basing their direct disease costs on a category including expenditures for hospital and nursing home care, and the services of physicians and other health professionals, but not including many other costs as medical research and medical facilities construction, two health economists, Lave and Seskin, estimated that 25% of the cost of all sickness and death due to respiratory disease could be saved by a 50% abatement in air pollution levels in major urban areas. Given the latest annual cost of respiratory disease of \$16.454 billion, the amount saved in this way would be \$4.114 billion. These cost estimates are



fewer and less definitive than we ought to have. Unquestionably, all health cost estimates that we do have are extremely conservative. One of their major weaknesses is that they omit a great many costs that should be considered in any reasonable cost--benefit analysis.

It is often asserted that environmental programs cause unemployment. A report from the President's Council on Environmental Quality, "Environmental Programs and Employment," (April, 1975) shows that combined spending over the ten-year period 1974-83 is expected to exceed \$200 billion. CEQ chairman Russel Peterson pointed out that the Bureau of Labor Statistics estimated that each \$1 billion spent for pollution control translates into about 67,000 jobs. This means that pollution control expenditures resulted in more than 1 million jobs in 1975 and this number will increase several fold over the next decade.

An additional employment benefit can be seen in the transportation sector. Employment opportunities can be increased by diverting funds from the Highway Trust Fund for highways to railroad and transit alternatives. According to calculations by Roger Bezdik and Bruce Hannon of the University of Illinois, a shift of construction monies from highways to railroads would result in a 3.2% increase in employment. Another benefit associated with mass transit construction is now emerging: an opportunity for black and other minority contractors to break into a traditionally white dominated construction field. For example, the Washington, D.C., metro has awarded some \$60 million to minority builders. At the same rate, minority concerns would capture about \$260 million of the total expenditure. That alone is more than one-sixth of the amount estimated to have been earned by all minority concerns in 1976 in all construction projects across the nation, public and private.

**In Conclusion:**

Rather than dwelling on unfounded predictions of economic and social hardships made by many, we ask you to consider the quiet disaster of air pollution that is with us now. We ask you to consider the positive benefits of pollution control in terms of improved health, safety, and general quality of life. We urge the adoption of a strong Air Quality Maintenance Plan that will meet all Federal Air Quality standards within the set time frame of the Clean Air Act Amendments of 1977.





21 Sunset Court  
Kensington, California  
June 23, 1978

Paul Cahill  
President  
Billie Bowles  
1st Vice President  
William Stetson  
2nd Vice President  
Sandy Smith  
Secretary  
Steve Carbonaro  
Treasurer

Honorable Leo J. Ryan  
Suite 219  
1720 South Amphlett Blvd.  
San Mateo, California

Gary Bosley  
Dale Burrow  
R. Weldon Crabb  
Ernest Curtis  
Theresa Dietrich  
Marty Farman  
Terry Faulkner  
William Fullam  
VI Gotelli

Dear Congressman Ryan,

Re: ABAG Environmental Management  
Plan. Congressional Hearings,  
by House Subcommittee on  
Environment, Energy, and  
Natural Resources.

David Grappo  
John Harris  
Ray Heaps  
Joann Jameson  
Anne Kaufman  
Dorothy Keener  
Nicholas Kudrovzeff  
Philip Larrabee  
Helen Martin  
Ralph Morrell  
William Pisenti  
Ted Reed  
Fred Stitt  
Judith Sutherland  
Bob Thierry  
Charles Toogood  
Bobbie Vargas  
William White

Request to Participate. The Regional Citizens Forum is a volunteer action and research group made up of citizens of all the nine San Francisco Bay Area Counties. Under federal mandate, ABAG originally established and sponsored this citizens' advisory group in 1973. The Regional Citizens Forum has continued on an independent basis since 1974. We have worked, analyzed, and commented on numerous Regional Plans ranging from Housing, or Economic Growth, to the Environmental Management Plan at issue in your Subcommittee Hearings.

The Regional Citizens Forum were not informed of your hearings until yesterday, June 22, 1978. Therefore, we have no position on the agenda.

We would like to contribute our comments for the record that your committee will publish following the hearings.

Representative  
Council

We plan to comment on: 1) the insufficient provision for open public participation in the EMP planning process, and 2) the impact of the EMP upon local government and the economy and well-being of citizens of the San Francisco Bay Area.

Regional Citizens Forum  
June 23, 1978

Request for Permission to File Written Presentation for the Subcommittee Record. The Regional Citizens Forum requests that you allow us 10 days to prepare and submit a written presentation, to be included in the formal records and publications of this subcommittee hearing.

Appropriate to our intended presentation, I attach three documents. Relative to practices excluding broad citizen participation are 1) transcripts of the ABAG Legislation and Governmental Operations Committee meeting of February 26, 1978, wherein the controlled selection of citizen participation is revealed, and,

- 2) Newspaper article from the San Rafael Independent Journal of March 30, 1978, commenting of the exclusionary decisions of the February 26, 1978 meeting.

Relative to impacts of the EMP on the San Francisco Bay Area

- 3) Letter dated June 9, 1978 from the Regional Citizens Forum to the Delegates of ABAG Cities and Counties.

Very truly yours,

*Paul Cahill*  
PAUL C. CAHILL

President,  
Regional Citizens Forum

Attachments: 3  
cc: Mrs. Vi Gotelli



Transcript of Proceedings  
Re: Agenda Item No. 2\*

## LEGISLATION AND GOVERNMENTAL COMMITTEE

February 26, 1976 Berkeley, California

Offices of the Association of Bay Area Governments

## Participating Parties

Mayor Ilene Weinreb, presiding	Mr. Paul Cahill, Regional Citizens Forum Chairman
Supervisor Rod Diridon	Mrs. Violet Gotelli, RCF Council San Mateo
Mr. Charles Forester, San Francisco	Mr. Phillip Larrabee, RCF Council Alameda
Councilwoman Mary Henderson	Dr. Weldon Crabb, RCF Council San Francisco
Councilman Arthur Lepore	Mr. Robert Thierry, RCF Council Solano
Councilman William Lucius	Mr. Revan Tranter, Executive Director, ABAG
Vice Mayor John Miskimen	Miss Lizette Weis, Public Affairs Director, ABAG

MRS. WEINREB (presiding): "The second item is expansion of the Environmental Management Task Force. Lizette?"

MISS WEIS (ABAG staff): "The Environmental Management Task Force has spent an inordinate amount of time discussing how it shall proceed and operate. I think Ilene ..."

MRS. WEINREB: "It is inevitable when you start a committee to spend an inordinate amount of time on housekeeping."

MISS WEIS: "OK. One of the questions that keeps coming up is the composition of the task force. As you probably know it has forty-four members, with a possible forty-six members. It is the staff's recommendation that we let the task force proceed as it is, because it's such a large group a large group with the current make up and expect that there will be a great deal of citizen involvement and special interest involvement during the course of citizen participation activities."

MRS. WEINREB: "OK. The committee of course has discussed the number and what, what organizations could be represented, and yet keep as small as possible. So, unless there is some other comment from a member of the committee ..."

MR. CAHILL (RCF Chairman): Yes, I would like to comment; I am not a member of the committee, but would like to."

\*Prepared March 3, 1976, by the RCF from tape of Committee Meeting Proceedings.

ATTACHMENT "1"

MRS. WEINREB: Yes. Wait just a minute, let me just... I will allow you of course to comment. Is there anything that members of the committee wish to say that we haven't said before? All right then, let's ... yes? Chuck?"

MR. FORESTER: "I would like to say something. I'm currently serving on that committee representing Mayor Moscone. It's my feeling that the ... one of the most important jobs of the task force is to put together the governmental and financial arrangements necessary to make that Environmental Management Plan work, and I think it's most important that the ... that the role of the elected officials in that not be any further diluted since they're going to be primarily responsible not only for designing but for implementing the plan once it's established. So, I would strongly urge that the present membership be maintained."

MRS. WEINREB: "Mary?"

MRS. HENDERSON: "I'd like to add one follow-up comment ... The reports back that we had at BCDC from the non-elected official members have been very critical of size of the committee ..."

MRS. WEINREB: "That it's too large?"

MRS. HENDERSON: "... that it's too large already, and there was a suggestion that it be even larger, and that was strongly reacted to and resisted by those involved as being unworkable and unwieldy and I only make the comment now because it came from the non-elected official's perspective."

MRS. WEINREB: "Any other comments from members? Alright, there are some people here, I think, who want to speak on this and I will allow them to do so. Would you please identify yourself and what organization you are with."

MR. CAHILL: "My name is Paul Cahill. I am Chairman of the Regional Citizens Forum."

"I consider the composition of this committee [EMTF] to be a very serious matter, and I would hope we would have an adequate discussion of it today, seeing as it involves federal funds that ABAG is spending here, and there are statutory requirements that must be observed."

"I have written a letter to Mr. Grote, and wondered if that had been distributed to the committee members?"

MISS WEIS: "No it hasn't, but it is mentioned that you requested to be on the committee."

MR. CAHILL: "OK -- I think it's important -- I think it's insufficient that it hasn't been distributed, but ..."

MRS. WEINREB: "Well, why don't you summarize it?"



MR. CAHILL: "Alright. It's fairly short, so I'll read it:

'Dear Mr. Grote:

'The Regional Citizens Forum recognizes, along with ABAG, that drawing up a regional plan on waste disposal, air and water quality control has immense ramifications. As citizens focused on the future of our San Francisco Bay Region, we should like to fully participate in the formulation of this plan: rather than be on the sidelines, it is requested that Regional Citizens Forum have a representative working on the task force.

'Though we were not approached by ABAG for this task, we believe it worth the time and effort and beneficial to the project as well. We do not believe the route of comment at public hearings provides sufficient citizen involvement, nor does it allow for the effective input that working on the task force affords.

'Our work and concern in Regional Planning has been constant since ABAG initially sponsored the founding of our regional citizens group in 1972. We have reviewed and commented on various such regional plans and elements, such as the Regional Growth Plans and Housing. Often our outlook was not similar to the great majority of the citizen group representatives you have placed on your task force so far, but it is an authentic view that should not be excluded in the drawing up of the regional policies.'

"Alright. Now, with regard to this I have surveyed the law, and I ... as a talking point here today. I have prepared a memorandum of authorities, which I will distribute at this point."

MRS. WEINREB: "Alright. While you're doing that let me just say that I would be very surprised to hear that your viewpoint is or is not a majority viewpoint on the task force because at this point, sitting there, I would not be able to tell you what the majority viewpoint ..."

MRS. HENDERSON: "I think it is a very diverse group and I know that from point of view I can't even do that yet."

MRS. WEINREB:

"I would like Lizette to summarize the modification that was suggested and adopted at the last meeting as to how citizen input of those citizens that are not on the task force would come into process."

MR. CAHILL: "Alright, then, I will continue my remarks."

MISS WEIS: "The process that was adopted was adopted by Environmental Management Task Force in their last meeting was the 'linkage' between citizen activities at the county level, which would be conducted by the lead agency in each county -- it won't necessarily be the county -- the lead agency in each county and the Environmental Management Task Force. And the Task Force agreed to set up 'liaison teams', made up of three representatives of the task force which will work in each county. So that means that there will be nine teams of three people each. ... be responsible to make that linkage. What's only part of the citizen involvement that to make the link with what's happening at the local level with what's happening at the regional level. There will, of course, be a lot of other activities just as ABAG's citizen involvement program involves citizen alliance and a whole range of other activities."

MRS. WEINREB: "But the purpose of that was to form a very close liaison between the citizens in the individual counties and the Task Force."

MR. CAHILL: "I think this is in conformance with your working plan, however, I would indicate that we are a general group, and ..."

"Before I go further with my remarks I would just like to introduce the people who are here -- first, Vi Gotelli from San Mateo County, she is also chairman of an environmental group for women; Mr. Bob Thierry of Solano County, also the executive director of the Taxpayers' Association of Solano County; Phil Larrabee, Attorney from Oakland; Dr. Weldon Crabb of San Francisco, also on the California Coordinating Council."

"And I would point out that we feel very strongly that there has been an inadequate selection method used, that has resulted in an inadequate representation on this board /EMTF/. And we are going to make this point here and if we do not get redress we are going to take it further."

"In selecting the present committee -- it was done too fast, we were not solicited; certain groups apparently were solicited by staff. We haven't yet been apprised of the selection/solicitation method, but that would be discovered ..."

MRS. WEINREB: "Let me interrupt there. The ... this committee determined which groups would be asked to send representatives, so that if you do have any complaint it was this committee."

MR. CAHILL: "Alright."

MRS. WEINREB: "The staff made some recommendations some of which we accepted, others of which we did not accept."

MR. LUCIUS: "Madame Chairman, I'd like to make a point through the chair to the speaker that I don't react to threats, so just go ahead."

MRS. WEINREB: "I would associate myself with your remarks."



MR. CAHILL: "Bill, I am not putting out threats -- I know a few years ago I was asked if I was threatening a lawsuit. I don't think it's proper to proceed by a threat. But I do believe that observance of the law is necessary, and if we call the ABAG committee or the ABAG groups to respect these laws, that I don't it should be considered a threat, but it's our responsibility as citizens to ..."

MR. DIRIDON: "Paul ..."

MR. CAHILL: " ... bring that up. I would also say ..."

MR. DIRIDON: "Paul ..."

MR. CAHILL: " ... let me just finish this presentation, and then we can ..."

"The Plan was issued -- when issued most of the groups, or many of the groups' names were already in place.

"Now, I think that the committee, if you look down the list of who you selected, it is an inadequate representation from our point of view. It has special financial interests. It has environmentalists and groups which are on record as in favor the land use planning approach to the public good. And also selected racial groups.

"Now we want to know where the rest of the community is? People like us, people who are working groups, taxpayers groups, the majority groups. And we think that this exclusion of the Regional Citizens Forum which has been probably one of the only groups that is focused on regional planning in the Bay Area, exclusively -- that's in our charter -- and we have come to ABAG meetings month after month, and issued reports we have drawn up on your plans -- to exclude us -- is making your committee unrepresentative.

"And as I go through these ... [Referring to Memorandum of Authorities] ... you are designated 'to encourage' people. This is the congressional declaration in the Act.

"The Code of Federal Regulations that we cite here, is that you are to have broad representation 'to the fullest extent practicable,' and it isn't just a matter of your convenience.

"The 'intent', as stated here in the Code of Federal Regulations, 'is to foster a spirit of openness and a sense of mutual trust' and I think when you proceed and not even to solicit whether people would want to participate or not, and you select a committee biased to certain interests, then you cannot expect that you are operating in that spirit or that you have our mutual trust."

MRS. HENDERSON: "Madam Chairman, I would like to interrupt for just a moment. I think it quite unfair to individuals on the committee to conclude that they are biased."

MR. CAHILL: "No, I didn't say they were biased."

MRS. HENDERSON: "But you just said that."

MR. CAHILL: "I didn't say they were biased in a personal manner. I said that by selecting the groups you have selected, and their known records and their positions, you have picked those groups which have a land use planning bias, and it's not that they are biased, but it's just the method they always come up with for solving these problems."

MRS. WEINREB: "In your opinion, Mr. Cahill."

MR. CAHILL: "That is correct. I think the guidelines which you have received from EPA state that whatever institutionalized structure you set up it 'should not be dominated by any one interest group' of the public."

"Now, the law does provide for city and county representation and that's fine and you have done that. In the area of ... It also though, requires the public participation and that is citizen groups, and you have to be careful when you do select these that you approach it in an equitable way, and that's all that I'm pointing out to you."

"Now, even your own plans here, as Lizette has pointed out, you have a sub-group working. But this, to us, is a favorite trick that we've run into with ABAG. You centralize the planning at the top and you only put your people at the top -- and then for the citizens, you de-centralize local input. Now, I don't think we should be put down in the linking of local citizens groups when we are a regional organization, and are focused on regional planning."

"There is just no question that this Environmental Task Force has broadened -- the charge number four was broadened at the suggestion of the Bay Area Council to include the, its folding in with all the regional plans. It just does not ... is not sensible to restrict us off of that committee -- you don't have anybody representing our point of view on that committee."

"Now even your own brochure, this blue one /referring to 'Prospects -- Environmental Management Program/states that your plan, your 'Environmental Management Task Force' is going to be 'broadly representative of the various regional ... citizens groups concerned with environmental quality and development issues in the Bay Area.'"

"We are specifically one of those groups and we are just not represented."

"Now, apparently ... I'm feeling a lot of hostility from the members, maybe it's the way I'm delivering this. But ..."

MR. LUCIUS: "You may, but I don't have any hostility."

MR. CAHILL: "I have to put this across in a serious vein, you know. I didn't know if I'd be treated well, and they'd say 'Fine. Join our committee. We're glad to have your interest,' or 'No -- no soap.'"

"But if you vote today to exclude, I'd like you to make some findings, because we're going to take it up to your executive board and we'd like it known for what reasons you used to exclude us from this thing. And I think that ..."



MR. LUTTUS: "Madam Chairman, I ..."

MR. CAHILL: " ... since it involves so much money -- \$4.3 million dollars -- which is twice the annual budget of ABAG, this is not just a minor matter to be treated in a cursory fashion by this committee or by ABAG."

MRS. WEINREB: "Thank you, Mr. Cahill. Yes ..."

MR. DIRIDON: "We debated this over two different meetings, an intervening period of several weeks anyway, a lapse between the debate period. Leading up to the debate several months passed during which time we realized that a 208 planning group was required. This group is patterned after the air advisory group. Practically identical. And there were some additions made in order to strengthen it."

FEMALE VOICE: "In order to get representatives from water. Because they were ... Because that needed to be on."

MR. DIRIDON: "That's right ... broad representation. In addition, twenty-five out of the total group of ... what is it? Thirty-six?"

FEMALE VOICE: "Forty-four."

MR. DIRIDON: "Whatever the number, the majority are elected officials. That by definition, represent the citizens, and they represent them because they were elected. Paul, if you'd like to stand for election, you have that privilege."

MR. CAHILL: "Thank you. Yes, Mr. Diridon ..."

MR. DIRIDON: "Wait just a minute, I believe I had the floor. And when you want the floor, ask to be recognized. The group, I think, has deliberated very carefully to make sure this organization is the best one possible given the constraint of the numbers of people that can work within a committee structure. It was on the schedule that was ... that it followed to meet the guidelines established by the federal government, and as far as I am concerned, it is done."

MR. CAHILL: "I would just respond to two things. First of all, when this was an air advisory group, it was very, uh ... less ... it was one of your task forces, but to the extent it has been expanded it has become integral with regional planning. It impacts in all ways."

"And even the statement you had distributed here [referring to 'Prospects'] the first thing it says, 'what ...' -- Environmental Management 'Prospects'. 'what is the most critical environmental problem?' The one is 'Decisions on the region's growth -- how many people will live here, where they will live, how they will travel ...' It's the regional plan -- something we have been very much involved with and, and want to continue to have effective citizen involvement with."

"Now, Rod has mentioned that there are local elected officials on this, and that by definition they are sent there by local people. And that's true. However, the law says there will be elected officials -- but the law also says there will be public participation. And there is a distinction between the two made in the law, and I think you must observe that distinction also.

"You know this task force isn't even ... it is just an advisory task force. It then turns its material over to the Regional Planning Committee where citizens are not ... on ... and then that turns it over to the executive board. Now how far are you going to reduce us from getting involved in the planning process? There is no reason why we cannot be on this regional task force."

MRS. WEINREB: "Thank you. Mary?"

MRS. HENDERSON: "Madam Chairman, I would think we could go so far as to accommodate every perspective and have everybody in the region on the task force if that were the ultimate end, but I think it is important to recognize that the law does say that a majority of the representatives shall be elected officials and at this point only forty-eight percent are elected officials. I further think it is not an exclusion from citizen involvement to not be a member. This is an agency of local government. It's meetings are announced. It's meetings are open. And it is certainly it's the ability of any individual to participate ... is always available. And I think there is the suggestion that the person is excluded from participation by the statement that you can't participate unless you are a member, and that is not the case. I do not feel it possible to accommodate every perspective that exists in the bay area with membership.

"And I support the committee as it presently stands. And I would continue to express concern about any additions that would further dilute from the requirement of the majority of elected officials below the forty-eight percent that presently exists."

MR. CAHILL: "Could I respond. May I make a comment to Mary?"

MRS. WEINREB: "John?"

MR. MISKIMEN: "Yes, I have a question: the blue memo had indicated that four organizations had requested representation on the committee, two are mentioned, what are the other two?"

MISS WEIS: "I'm sorry, I don't know. Leonard Grote has those letters. He said would handle them, and I don't, don't have the names."

MR. MISKIMEN: "OK, the second question is, I gather the authorized size of the committee is 44 to 46 ... (inaudible portion) As of today, we have 44?"

MISS WEIS: "Yes."

MR. CAHILL: "Do you have plans for the additional two?"



MISS WEIS: "No, the additional two are that the chairman or vice chairman can or cannot be representatives on the committee. It happens that both of them are members so there are forty-four until there is a change in the chairmanship."

MR. CAHILL: "Now, I ..."

MRS. WEINREB: "Pardon me. Let me just ... see is there any one here from another group? ... who wants to speak? ... alright you are representing this group [RCE] and that is the group that ..."

MRS. GOTELEI: "Actually, I can speak for myself, if I may. I represent a statewide organization of environmentalists. We are also were involved in ABAG's decisions. Not always been on the right side of what ... what your point of view is. We do believe that there has to be regional planning on many, many levels. And it means that there must be coordination. I don't know if Mr. Cahill felt any hostility here today. I certainly did."

"I don't think there is a need to call a person down -- a citizen who stands before your committee, and accuse him of making threats when he says that if doesn't receive the (inaudible) here, he will go higher. That is a matter of course, not a threat."

"I sat here today and felt tremendous hostility and I been on the Citizens Forum for now -- since its inception. And as I say, I may not have your point of view. I do care about citizens and as I say we are a women's group, we are statewide, we are incorporated, we are tax exempt, everything ... we are environmentalists. But ..."

MR. DIRIDON: "What's the name of the group?"

MR. CAHILL: "A.W.A.R.E."

MRS. GOTELEI: "... I object when I come into a room like this, and when I see citizens having to be called down because they do not have the authority that you do sitting on this board. And I have very good rapport with my supervisors, and you may call this a threat if you want, but if such things are going to take place in ABAG, I shall talk to the supervisors in my own community and say 'Hey, it's not there. There is no citizen input there. And when a citizen does come before that, they have to be insulted, or called down, or belittled ... and I don't think it is to your credit.'"

"So it's not a threat, and say what you want, and call it off. But I never want to come into any ABAG meeting again and see a citizen treated the ... what I've seen today."

MRS. WEINREB: "Let me say I am apparently the new person to this kind of dialogue. You are, are new faces to me, and I came in just expecting to see some citizens here. What I do say, I respectfully disagree with you, when Mr. Cahill, you say, from almost the beginning that if you, if you don't get the kind of answer you want from this group, you will carry it higher, that is a hostile kind of remark. And think the committee responded to that -- and perhaps the committee ought not to have responded to that, but I ... that did rather set the tone."

MR. CAHILL: "I'm sorry that ... maybe my manner is not the most gentle .. you know, and I would apologize for that.. But I do feel it is a vitally important issue -- and maybe that is why I am in here, 'charging' as much as I am.

"I think, I would just comment on the question John asked. I think that the staffing on this has been very inadequate. In other words: our letter wasn't distributed to you -- I don't see how you were supposed to make a judgment on us. The other two groups aren't mentioned. The National Association of Industrial Parks, I don't know anything about them. But, I would say to both Mary and John, in this area, that when you decide whether you are to expand or not you have to look at groups.

"Now you may not want to expand it for the industrial parks. But I think we have made a very good case of why we ought to be included. And, unfortunately, this [staff] memo was inadequate. That's the reason we came here, forward here today, was to try to supplement ... in case this sort of thing came forward. I'm really amazed that my letter wasn't even distributed.

"But ... I appreciate you are new to this committee, but we have had, as an organization, some trouble with ABAG staff in the past.

"And, maybe at the beginning when I referred to this things coming out with selected people, and you corrected me that this committee made the appointments, I still think that there is a deficiency here when the committee did not let other groups know. For example, this particular blue thing [referring to 'Prospects'] I didn't get this until the 26th of ... of January at our regular meeting. Now I am the citizens group and apparently not receiving these mailings from ABAG, and I can't understand why."

FEMALE VOICE: "This blue sheet?" [referring to staff memo]

MR. CAHILL: "No, I'm referring to this thing called 'Prospects'."

MRS. WEINREB: "Yes, that's when we all got that."

MRS. HENDERSON: "I got one of them yesterday."

MRS. WEINREB: "Let me just say we have made the designation of the groups before that was printed by several months."

MR. CAHILL: "Well, I think it was premature to make the designations before it's even out to the public to find out who wants to be on board."

MRS. WEINREB: "Well ..."

MR. CAHILL: "What principles of selection did you use, could I ask?"



MRS. WEINREB: "Yes. The principle of selection we used for the non-elected official, to try to get a cross-section of the groups in the Bay Area that were major groups. And if you'll notice that labor, industry, business, minorities group, as far as a general interest group -- the League of Women Voters.

"So that we did make that attempt I ... I'm by no means indicating to you that we did that perfectly. But we spent quite a lot of time thinking about it, debating it. We did not ask any of these groups, we, as elected officials from many parts of the Bay Area ... We do feel, and maybe it is presumptuous on our part, but we feel we have some understanding of the various groups in the communities we come from. So that's one thing that we feel completely comfortable about.

"We may not agree with all of the groups, and I might say some of the groups that are on these I'm sure I don't agree with their viewpoint, but we tried very hard to get a representative cross-section while keeping the overall group to a reasonable size. And that was a very important consideration."

MR. CAHILL: "Madam Chairman, I do not object to anyone who has been selected here but I do think that it is still not representative, and I think that the addition of our group -- and this is the reason I have, have come forward -- would correct a serious and glaring lack on this representation by the public."

MR. THIERRY: "I would like to make an observation. I think the tone for Mr. Cahill feeling when he started speaking that the committee members spoke first and they had already made up their minds that there would be no additions to committee and yet you hadn't received a copy of the letter requesting additional participation on the committee. It does seem like you've had a closed shop to begin with. I can well understand how /inaudible/ ... speak in any other way than he did, I think he was proper in requesting /inaudible/ .. I would have felt the same way."

MRS. HENDERSON: "Madam Chairman. Notwithstanding the receipt or non-receipt of his letter, I think it ought to be made clear for the record that we had this for an agenda item and we were aware that a number of other groups were seeking representation and we had a staff recommendation with regard to the addition of any other groups to any other group. So we were aware of the question of additions to the committee."

MRS. WEINREB: "Is there any other comment by any member of the committee before we take a vote on the ..." It is an action item. On our recommendation to the Executive Committee on expansion of the Environmental Management Task Force. not

"And, Mr. Cahill, if you and your group, ... feels we have made the right decision you can certainly appeal that decision to the executive board."

MR. CAHILL: "Could I just ask that the question be divided, I don't believe, since the other parties haven't been here, you haven't heard their presentations, you can determine if you want to open up for anyone additional. But I would like it divided as to our group ... whether we ought to be allowed onto this task force. Secondly, you decide as to the other groups."

MRS. WEINREB: "I am very reluctant to do that because other groups have the same rights that you have."

MR. CAHILL: "That's right. MRS. WEINREB: And therefore I think we are talking about expanding it, that is the general question, any votes that we should expand then we will discuss, how far, how many, etc. So I think we should logically, divide in that way and talk that way. And vote first on the general policy of expansion or non-expansion. And if we decide to expand, to ..."

MR. CRABB: "Madam Chairman, can I make one observation?"

MRS. WEINREB: "Yes, Mr. Crabb."

MR. CRABB: "Did any other group though here, come and make the effort to want to be asked to join the ..."

MRS. WEINREB: "I presume not, because I asked and nobody raised their hand."

MR. CRABB: "Well, I think the reason for asking that is that it is important we made an effort. There are 2 extra seats [inaudible.]"

MRS. WEINREB: "No sir. That is a rather complicated organizational matter. Under ABAG by-laws they can appoint the Chairperson and Vice Chairperson to each committee. Now, if those people were not already on the task force, they could appoint those two extra elected officials. As it happens, the two persons the Executive Committee chose to be chairperson and vice chairperson were already designated by one jurisdiction or another. So that we did not have to expand to 46, and as we indicated, we wanted to keep the committee as workable as possible and yet ... the reason it is that large is to get representation

MR. CAHILL: "You know Mary said it didn't matter if we were members of a committee or not. That we have full right to participate. And yet I asked ... If I were a member of this committee I could ask for a procedural division of the question. And procedure has a lot to do with your rights. And here you are not allowing ... I would prefer if you treat us -- vote us up or down. So we have a clear matter to go to the Executive Board with. Rather than have it in the middle of this matter."

MRS. WEINREB: "Rod, you had something to say ..."

MR. DIRIDON: "As a matter of parliamentary procedure, you can only ask that the motion be divided. If the maker of the motion doesn't choose to divide it, you will have to do that by motion."

[Tape Change]

MR. MISKIMEN: "I suggest we defeat this motion, selecting of committees is always difficult I think, and I don't think we should delay action until next month particularly where the other groups apparently have also asked.

"It is my view that the group -- the Regional Citizens Forum -- has made a logical reason for why they should be on the committee. I think also



San Rafael INDEPENDENT JOURNAL  
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## ABAG Bay Area plan rapped

The proposed Bay Area Environmental Management Plan drew much fire and no praise Wednesday from Paul Cahill, chairman of the San Francisco Bay Area Regional Citizens' Forum.

Cahill spoke at the annual meeting of the Marin Coalition, addressing about 130 persons at a luncheon at Peacock Gap.

The environmental plan will be voted on in June by the Association of Bay Area Governments. Cahill said it "promotes a strategy antagonistic to individual choice and economic freedom... would force people back into the core cities and would choke community decision-making" by depriving citizens control over land use.

The plan is designed to meet federal Environmental Protection Agency long-range standards for clean air, water supply, sewage treatment and solid waste management. "It's inadequate — it fails to assess the economic and social impacts" on citizens and their communities, Cahill charged. He also called for a better cost-benefit analysis of the plan.

He noted that his forum was set up as an advisory panel by the Bay Area association four years ago, "then was de-funded after the first year," after opposing efforts by Assemblyman John Knox, D-Richmond, to legislate regional government into being.

"Then along came EPA..." Cahill said. "ABAG made an offer to EPA that they could not refuse" and began drafting the environmental plan with \$4.3 million support from EPA.

Cahill noted that the Environmental Task Force — which he said was "hand picked" to support regionalism — had removed the controversial proposed land use controls from the draft plan in recent weeks. But they could be reinstated, he warned, by votes of ABAG's regional planning committee April 3, by the ABAG executive board April 8, or at the meeting of the association's General Assembly June 10.

The draft plan contains "repugnant features," Cahill said, especially "local enforcement imposed from above. The mindset of the drafters is essentially no-growth" and could have an impact ranging into billions of dollars in business loss in the Bay Area, higher rents and lost jobs and housing.

Cahill said that on one hand the Bay Area has been threatened with denial of federal and state grants if it doesn't adopt the management plan, and on the other hand the area long has been mis-informed about harmful impacts from the plan by its creators.

Cahill praised San Rafael City Councilman John Miskimen — in the audience — for protesting the exclusion of the citizens' forum during ABAG committee sessions. Miskimen, an ABAG delegate, recalled that his protest drew a response from a fellow ABAG director that "Cahill doesn't agree with us and he's most effective."



June 9, 1978

Paul Cahill  
PresidentBillie Bowles  
1st Vice PresidentWilliam Sletton  
2nd Vice PresidentSandy Smith  
SecretarySteve Carbonaro  
TreasurerTo: Delegates of ABAG  
Cities and CountiesFrom: Paul C. Cahill *Paul C. Cahill*  
President, San Francisco Bay  
Area Regional Citizens Forum

Gary Bosley

Dale Burrow

R. Weldon Crabb

Ernest Curtis

Theresa Dietrich

Marty Farman

Terry Faulkner

William Fullam

Vi Gotelli

David Grappe

John Harris

Roy Heape

Joann Jameson

Anne Kaufman

Dorothy Keener

Nicholas Kudrovzell

Philip Larrabee

Helen Martin

Halsh Morrell

William Pisenti

Ted Reed

Fred Still

Julith Sutherland

Irene Thierry

Charles Toogood

Robbie Vargas

William White

Representative  
Council

Through individual conversations with many of you, we citizens in the Regional Citizens Forum realize that many officials feel compelled to accept this plan, however unpalatable it is. Despite the hoopla about "democracy" and "solidarity", you feel like you are on the business end of a loaded gun. The threats from the federal bureaucrats and the State ARB are indeed menacing.

Yet we citizens call upon you to revolt under this strong arm pressure. Reject this plan whose provisions will not only overthrow the principles of local home rule and individual choice, but will cripple the economy of the San Francisco Bay Area.

We ask you to consider three main points.

1. The plan promises near-term economic stagnation. As R. Robert Brattain pointed out in his April 1978 COLAB report, Ambient Air Quality Standards: Goals or Gods, p. 2, "there is no way of attaining and maintaining the standards adopted by the plan/ except limiting the growth of the Bay Area." The public interest insists that you officials only adopt standards of air cleanliness that are at the same time safe and compatible with the other worthwhile social and economic goals of our citizens.

As I urged Mr. Dean Macris, ABAG Associate Executive Director, over two years ago, this \$4 million study is likely to be the only "shot" Bay Area officials will have in comprehensively studying the environmental question. ABAG Task Force must spend ample monies researching and determining air cleanliness standards that are achievable and desired by the people of the Bay Area.



June 9, 1978

This was not done. Instead, today's proposed transmittal letter apologetically and inaccurately states "... we [ABAG] have been obliged to accept all standards as given, without assessing their wisdom or efficacy." In the face of the real evidence of the unreasonable economic and social burdens that this plan promises to visit on our Bay Area such a "Pontius Pilate" attitude is bad leadership.

It is not only the lack of balanced, rational air standards that promises to retard growth, but the deliberate undersizing of sewers, and the overall replacement of the business and free enterprise system for a system of central government controls.

2. This plan represents an inordinate advance in the growth of Regional Powers. Counties such as Napa and Sonoma are aware of this danger and have chosen not to be part of the establishment of this plan. Not unlike Esau, cities and counties seem ready to give up their birthright for a mess of porridge. While the particular decisions being made today are less onerous than those originally being proposed, they do establish the principle of collectivist decision-making. The plan, once approved, will be Federally-enforceable against any city or county who presently disagrees or later decides to proceed on an alternate course.

3. This plan which has such great uncertainty as to its cost and its affordability should not be adopted. As the Regional Citizens Forum pointed out in early hearings on the Draft Environmental Impact Report, there is a totally incomplete assessment of the fiscal, economic, social and environmental impacts of this report. Review of the Final Environmental Impact Report shows that this defect has not been corrected and that the F.E.I.R. neither meets the requirements of law or of sound decision-making. Serious estimates of costs to implement the air strictures run in the neighborhood of \$400 million dollars. Further, it is foolish for local governments to bind themselves with expensive commitments for water and sewage projects, as well as other expenditures to be required by the plan, in the face of the passage of Proposition 13, the Jarvis-Gann. Property Tax Limitation Initiative. On these grounds alone, delegates to the ABAG General Assembly should delay adoption of any plan.

In conclusion, the reasonable policy for ABAG leaders in the San Francisco Bay Area is to reject the adoption of this plan.



Political Action Coalition  
for the Environment

390 Grand Avenue, Apt. 2,  
Oakland CA 94610



TESTIMONY OF LOUISA JASKULSKI, CO-CHAIR OF POLITICAL ACTION COALITION FOR THE ENVIRONMENT (P.A.C.E.), SUBMITTED FOR THE RECORD OF THE SUBCOMMITTEE ON ENVIRONMENT, ENERGY AND NATURAL RESOURCES, HOUSE COMMITTEE ON GOVERNMENT OPERATIONS HEARING, 23 - 24 JUNE, 1978, IN SAN FRANCISCO, CALIFORNIA ON THE ASSOCIATION OF BAY AREA GOVERNMENTS' ENVIRONMENTAL MANAGEMENT PLAN

The Political Action Coalition for the Environment (P.A.C.E.) -- an Eastbay organization of 300 environmentalists, public employees, minority, women's and consumer advocates concerned with the impact of regional agencies, plans and policies on our society -- wants to commend the hundreds of local elected and appointed officials and private citizens who gave thousands of hours so diligently and conscientiously to produce what is in some respects an admirable Environmental Management Plan for the San Francisco Bay Region.

PACE supports the solid waste element enthusiastically, and supports the water quality and water supply elements as acceptable compromises.

However, PACE opposes the Air Quality Management Plan of the ABAG Environmental Management Plan unless:

- (1) the California Air Resources Board amends it to include more Reasonably Available Control Technology (RACT), including a wider range of transportation controls, such as: a 35% increase in mass transit ridership by 1985; additional local financial support for mass transit through regional parking taxes and/or increased bridge tolls; creation of auto-free zones in parts of the major central business districts; other equitably-imposed parking controls; or
- (2) the California Air Resources Board disapproves and returns the AQMP to ABAG to enable local governments to do more solid searching and to develop more reasonably available control technologies.

Without one of these two events occurring, the ABAG AQMP will remain what it now is, a flawed compromise that incorporates only Politically Acceptable Control Technology (PACT). PACE cannot support such a plan where the objective is to meet a health-based standard, and the consequences will include a lessened dependence on the private automobile.

We recognize the difficult position in which ABAG and local government officials now find themselves. Opposition to the December 1977 draft AQMP has been massive, and by and large the Bay Area environmental movement did not effectively support what was once an acceptable plan. We think that Congress and the Environmental Protection Agency have set an unrealistic two-year time frame in which to develop and meaningfully discuss such regional environmental plans. In particular, vital social, economic and employment impact assessments which should have been available during the formulation of the policies were not available until late January 1978 (Air Quality Technical Memorandum 15). By that time, opposition to the plan had crystallized, and few if any city or county planning staffs had the time or inclination to make use of the data. Those data showed clear economic and social gains, particularly to the region's inner cities, but a forecast of 40,000 fewer available jobs by the year 2000 (about 1-1/2 % of the anticipated labor force), when taken out of context, only fanned the fires of opposition.



ABARGE  
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STATEMENT BY DAVID I. TAM, REPRESENTING ABARGE, ON ASSOCIATION OF BAY  
AREA GOVERNMENTS' REGIONAL SOLID WASTE MANAGEMENT PLAN, JUNE 24, 1978  
OVERSIGHT HEARING CONDUCTED BY CONGRESSMAN LEO RYAN ON ENVIRONMENTAL PLANNING

Thank you, Congressman Ryan, for making available time on the second day of your hearing to receive testimony about the least controversial element of the Association of Bay Area Governments' Environmental Management Plan, namely, the regional solid waste management plan. It was put together by two to three staff planners, with the help of an advisory committee, on a two-year budget of about \$70,000, as I understand it. It is intended to fulfill the mandate of the Resource Conservation and Recovery Act of 1976, as well as Senate Bill 424, authored by State Senator John Nejedly of Walnut Creek, who has authored the lion's share of significant solid waste legislation in California. ABAG has been designated to the Environmental Protection Agency by the State Solid Waste Management Board as the appropriate regional solid waste planning agency; SB 424 restricts its planning to those issues identified in county plans as regional.

I know that you have a special interest in solid waste legislation; I hope you will be pleased to hear from me, especially after yesterday's testimony on the air quality plan, that the ABAG solid waste plan is not too tough and not too weak, in the view of most Bay Area recycling groups and environmentalists. We do have a few specific comments about solid waste planning that bear on Federal involvement in the process.

First, one of the only controversial proposals in the draft plan had to do with what is now Policy 7, "Federal, state and local governments should adopt legislative and administrative changes which promote waste reduction, where appropriate," and Action 7.1, "Change manufacturing standards and regulation, where appropriate." The original

description of Action 7.1 (now at page 76 of the April 1978 version) included among changes that "may be needed" the very controversial container deposit legislation. On a 12-8 vote, members of the ABAG Executive Board on April 20th voted to delete the phrase "Mandate recycling through a deposit bottle program," after dire warnings to the Alameda County Board of Supervisors from managers of five glass manufacturers that such legislation would cause extensive layoffs. In May, one of the manufacturers, Owens-Illinois, installed a more modern furnace and laid off 250 of its employees. So far, only one of the 93 Bay Area cities, Berkeley, has a container deposit ordinance on the books, and it is tied up for several more months in an appeal by several liquor and soft-drink retailers of an Alameda County Superior Court decision upholding its validity. Although several other cities are prepared to adopt similar ordinances, primarily as a means of reducing litter from broken glass, I think it is fair to say that the dislocations consequent upon adoption of this eminently sound, energy - conserving, job - creating, and anti - inflationary public policy could best be handled nationwide, if necessary along the lines of the recently - enacted Connecticut law, which provides for job - retraining and income - guarantees for those workers losing jobs.

A second observation concerns Policy 2 (page 68), "The amount of municipal wastes going to Bay Area landfills should be reduced by 30% by 1982, with emphasis on job-intensive, inexpensive source separation/recycling measures." ABARGE actively campaigned for this goal, and I have enclosed a one-page justification for it which was directed to the ABAG Executive Board. A concern expressed by several local officials was that the goal not be sanctionable, that is, that a failure for the region as a whole to achieve it not result in the cutoff of Clean Water, Urban Mass Transit, etc., monies. ABARGE agrees that categorical funds for other environmental programs should not be cut off if the solid waste goal isn't attained. However, we do believe that the Environmental Protection Agency and Congress should begin to set some modest but realistic numerical goals, so that teeth can be put into the regional and state plans



which the counties and cities are actively trying to get funded in the FY 1979 Federal budget at rather generous levels, <sup>and so that they</sup> are more than a post-Proposition 13 work relief bill for planners. The EPA, in its Fourth Report to Congress on Resource Recovery and Waste Reduction of August 1977, estimated the potential diversion from landfill for waste reduction techniques to be 10%, for source separation and recycling to be 25%, and for mixed waste processing, including energy conversion, to be 80% in urban areas (56% nationwide, 70% urbanized) (pages 7-8 of Fourth Report). Isn't it time for EPA to issue planning guidelines to the states receiving Federal money regarding landfill diversion to such beneficial ends as materials recovery, energy conservation, and energy development? Although California and some other states do not have a major problem with open, burning dumps, there's no good reason to hand out planning money to bring the country up to the level of California in the mid-1960's. IF the EPA and/or Congress does set some standards for waste reduction (say 5% by weight of residential and commercial solid waste), source separation and recycling (at least 10%), and mixed waste processing (if any of the current generation of energy conversion systems are cost effective -- and we believe the Consumat-type controlled air incineration systems are the only such systems), and IF Congress is willing to provide significant equipment grants or financial risk guarantees -- THEN legally enforceable sanctions on state and regional solid waste plans would be appropriate.

Finally, we'd like to point out that to get ABAG to adopt the 30% landfill diversion goal, we had to overcome the bias against recycling programs as small and ineffective, and the corollary assumption on the part of most public works directors, city planners, and elected officials that only big, capital-intensive energy recovery facilities will enable them to overcome their shortages of landfill. It's gotten to the point where public money will be wasted, if public officials continue to think of what's in the garbage cans as only waste. Urban waste collection in the Bay Area, where unionized, costs typically \$40 - \$50 per ton. Transfer operations to remote landfills will add another \$8 - \$15 per ton, much of it for truck fuel. Energy recovery plants will

probably cost \$7 - \$15 per ton provided the world price of oil stays where it is. Separate curbside pickup programs, such as the E.C.ology program of El Cerrito or the Davis and Modesto programs use smaller crews and trucks, so their collection costs are about \$10 per ton less -- and they do not require landfilling. A major task of ABAG, in cooperation with the State Solid Waste Management Board, will be to promote the growth of such programs by finding ways to stabilize the seasonally fluctuating market for newsprint. There is a significant job potential here: El Cerrito, a suburb of 23,000, now recycles 10% by weight of its garbage (33% of households voluntarily participating) and employs 12 full-time workers whose efforts are largely sustained by sales of recovered material (there is some CETA subsidy during the start-up phase, which began in September 1977). The El Cerrito experience suggests a Bay Area job potential in excess of 2,000 -- provided markets for the recovered material can be found. The landfill cost saving from recycling 2 million of 6.9 million tons by 1982 @ \$7 per ton average would be \$14 million. It should be pointed out that curbside residential pickups would account for only 30% of that 2 million tons; commercial, industrial packaging, construction/demolition, litter/street sweepings, and food processing wastes -- all of which are to some extent already being recycled -- would divert an additional 1.4 million tons from our irreplaceable marshes and canyons.

In conclusion, I would just like to observe that this very worthwhile plan is built on the sweat of many dedicated California recyclers who have been working for ten years and more to build community-based recycling organizations. Their statewide organization, the California Resource Recovery Association, has published a 150 page book, Recycling: The State of the Art, available for \$10, including postage and handling, from Community Environmental Council, 924 Anacapa St., Suite B4A, Santa Barbara, CA 93102. I give these publication details because neither the Environmental Protection Agency or the California Solid Waste Management Board has published any studies with such a wealth of practical detail.



## ABARGE

ASSOCIATION OF BAY AREA RECYCLING GROUPS  
AND ENVIRONMENTALISTS  
c/o Barry, 1581 11th Avenue  
San Francisco 94122 366-0886

April 16, 1978

Rod Diridon, President  
Association of Bay Area Governments  
Hotel Claremont, Berkeley CA 94705

RE: Executive Committee Review of EBP —  
30% Solid Waste Recycling Goal (4/20/78)

Dear President Diridon and Executive Committee Members:

ABARGE — an ad hoc coalition of 50 Bay Area recycling programs and several environmental organizations actively seeking responsible solid waste management — urges your support for the goals, policies and actions of the draft Solid Waste Management Plan. In particular, we strongly support Policy 2:

The amount of municipal wastes going to Bay Area landfills should be reduced by 30% by 1982, with emphasis on job-intensive, inexpensive source separation/recycling measures.

Policy 2 does not depend exclusively, but primarily, on such techniques for attainment of the proposed 1982 goal; some jurisdictions might undertake mechanical material recovery or small-scale incineration projects which would contribute to the 30% figure. But the techniques emphasized in the ABAG plan, particularly in Actions 6.2, 8.2, and 10.2 (which utilize \$3 650 litter tax monies earmarked for waste reduction education, marketing of recyclables, and source separation programs) will, if carried out conscientiously by local governments working in regional concert, bring the Bay Area to the 30% goal, and to national pre-eminence in waste reduction, resource and energy conservation, and the creation of upwards of 1,000 self-sustaining new jobs.

**Physical Dimensions of Municipal Waste, and Portions Recyclable:** By 1980, the Bay Area will generate 13 million tons of refuse annually. According to ABAG staff refinements of county solid waste planning data, about 6.1 million tons is agricultural, sewage sludge (Policies 15 - 16) or hazardous wastes (Policies 11 - 14). The remaining 6.9 million tons is classified municipal, and contains the greatest potential for recycling and for landfill cost savings. ABARGE's estimates of the recycling potential are:

Type of "Waste"	1982 Recyclable		Recycling Techniques	
	Tons/Yr.	% Tons/year		
Residential (63% newspaper, cardboard, glass, metals)	2,400,000	25	600,000	Voluntary home separation; curbside pickup/recycling center dropoff.
Commercial (35% cardboard, 30% other fiber, 8% glass)	1,700,000	35	600,000	Voluntary store/office separation; baling/reboring for pickup
Industrial (paper, wood, other packaging)	740,000	25	185,000	In-plant separation for pickup
Uncollected	170,000	0	0	None available
Construction/Demolition	1,300,000	35	460,000	Wood Salvage; crushing and reuse of concrete as aggregate; rebar
Litter/Street Sweepings	180,000	10	20,000	Shredding/magnetic separation.
Food Processing	420,000	35	150,000	Agricultural land application
Totals	6,910,000	30	2,015,000	

**Economic Feasibility and Desirability:** Total landfill of the 6.9 million tons entails expensive transfer operations for most cities, at \$8 - \$15 per ton. Small-scale (25 - 100 ton per day) incineration systems will cost \$7.50 per ton and up; large-scale (500 - 2,000 ton per day) energy recovery systems require \$50 - \$80 million of publicly guaranteed bonds, would create fewer than 200 Bay Area jobs, and are still somewhat risky technology. But they could handle about 30% of the total municipal waste. Emphasis on source separation and recycling is preferable for several reasons: (1) they are less capital intensive, needing small equipment and planning and market development; (2) they have existing state financial support — SB 650, enacted in 1977, will make about \$3 million available for five years to the Bay Area; (3) they will create in excess of 1,000 Bay Area jobs; (4) with revenues from sale of recovered materials and a credit for landfill savings, they should be self-sustaining; and (5) they are flexible, locally-controlled programs which can expand or contract depending on unpredictable circumstances. A major task of the ABAG plan, in cooperation with the State Solid Waste Management Board, is the stabilization of local markets, particularly for glass and newspaper; existing programs would be greatly strengthened as a result. Since strong markets for aluminum and ferrous metals and, seasonally, newspaper for home insulation, already exist, a regional commitment to recycling is the least risky, most flexible and relatively inexpensive approach to conserving wasted resources and saving landfill costs.

*Tania Lipshitz, Pam Belcher, Neil Smith, Chuck Papke, Terry Harrison, Sean Balloran*  
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San Bruno Oakland-Meritt Richmond Brw. SF Bay Chapter PACE Solid Californians  
593-2516 531-4911 Action 566-0886 Sierra Club Waste Com. Against Waste  
843-4833 893-2178 (408) 295-5650

Air Conservation  
Council  
of  
Northern  
California



A  
Coordinating  
Information  
& Action  
Group  
representing

Lung Association of Alameda County  
Lung Association of Contra Costa/Solano  
Lung Association of The Redwood Empire  
San Francisco Lung Association  
Lung Association of San Mateo County  
American Lung Association of  
Santa Clara-San Benito Counties  
California Lung Association

The work of the Air Conservation Council of Northern California is financed by the annual Christmas Seal Campaign.

JUL 16 1978

June 30, 1978

Honorable Leo J. Ryan, Chairman  
House Subcommittee on the Environment, Energy  
Natural Resources  
Room B-3718  
Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Ryan:

The American Lung Association as a health organization is deeply concerned about the progress made toward the attainment and maintenance of the primary air quality standards set to protect public health. Substantial time and effort has gone into the development of the Environmental Management Plan (EMP) and its component, the Air Quality Maintenance Plan (AQMP). The Lung Association affiliates in the San Francisco Bay Area have expressed their appreciation for the opportunity to participate on the Environmental Management Task Force (EMTF) and the Air Quality Maintenance Plan-Technical Advisory Committee. The following comments are presented for your consideration regarding our involvement on the EMTF and the development of the AQMP.

The EMTF had overall responsibility for the EMP development. The EMTF membership roster was developed to include broad representation from local government as well as special interest groups. However, we would recommend future planning bodies include greater citizen representation in an attempt to increase public acceptance of environmental planning.

A major criticism of the EMP planning process is that the EMTF was not allowed sufficient time to review and assess the proposed control strategies regarding their effectiveness and associated social and economic impacts. We feel an adequate timetable was developed. However, major delays were caused by internal problems related to the Memorandum of Understanding between the lead agency and supporting agencies. This interfered with the early collection of sufficient and accurate data thereby delaying development of the control strategies and their discussion by the EMTF. This need not be the case nationwide.

A further criticism of the AQMP is related to the cost to industry in implementing various control strategies. Although these have been exaggerated in many areas, no one can deny that pollution control will cost money. The point to remember however, is the cost of continuing to pollute. Two health economists, Lave and Seskin, estimated that 25% of the cost of all sickness and death due to

Please address correspondence in care of: CALIFORNIA LUNG ASSOCIATION 424 Piedmont Way, Oakland, CA 94621  
(415) 636-1756



respiratory disease could be saved by a 50% abatement in air pollution levels in major urban areas. Air pollution now costs Americans at least \$10 billion a year in health expenses, and that figure may increase even if air quality standards are met.

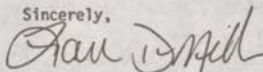
Additionally it is often asserted that environmental management programs cause unemployment. A report from the President's Council on Environmental Quality, "Environmental Programs and Employment," (April, 1975) shows that combined spending over the ten-year period 1974-83 is expected to exceed \$200 billion. CEQ Chairman Russel Peterson pointed out that the Bureau of Labor Statistics estimated that each \$1 billion spent for pollution control translates into about 67,000 jobs. This means that pollution control expenditures resulted in more than 1 million jobs in 1975 and this number will increase several fold over the next decade.

Of greatest concern to the Lung Association is that the AQMP as approved by the General Assembly of the Association of Bay Area Governments does not provide for attainment or maintenance of the air quality standards as required by the Clean Air Act. The AQMP addresses only one pollutant--photochemical oxidant. With the deletion of the transportation control and land use measures from the draft document, the Plan will not show numerical demonstration of attainment for this standard and further will not qualify for an extension of the deadline from 1982 to 1987. Additionally with the deletion of the text for the Continuing Planning Process, it is unclear how the AQMP will address the attainment of the air quality standards for carbon monoxide and total suspended particulate or maintain the air quality standard for sulfur dioxide. With this in mind, we do not view the AQMP to be effective.

Our final comments are in reference to public participation. The Lung Association has had many years of experience in citizen involvement in affairs relating to lung disease and health. We offer the following suggestions for citizen involvement in air quality and environmental management planning: 1) allocate funds to enable citizen groups to conduct community education programs to ensure meaningful community input; 2) conduct a vigorous education program on the role of the citizen in environmental planning; and 3) give adequate notice of pending policy or regulation relating to environmental planning.

In conclusion the Lung Association urges that air quality and environmental planning be characterized by a continuance and improvement of the measures to prevent an increase in air pollution and its deleterious effect on the health of our citizens, particularly with regard to respiratory disease. We believe this is justified on the basis of a cost-benefit analysis as well as common sense basis. We oppose any relaxation of compliance schedules, standards or standard-making procedures in the enforcement of the Clean Air Act and any steps that would sacrifice air quality or any environmental goals.

Sincerely,



Fran Du Melle  
Staff Director

317 San Pablo Ave.  
Millbrae, Ca 94030  
July 5, 1978

Regard Congressional Hearing on E. M. P.  
in San Francisco, Ca. Courtroom 12 of Federal Office Bldg.

JUL 7 1978

Dear Congressman Ryan and Congressman Cunningham,

as I listened to speakers from Sierra Club, League of Women Voters, and Citizens for Better Environment, (especially), on Friday, June 23, 1978 at the Congressional Hearing. I could not help but wonder how many of those thousands of people they claimed to be representing knew anything of what those so-called Representatives were saying to you. Many times people claim to be speaking for others who know nothing of what is being said, which fact strikes fear in my heart for the safety of future validity of our United States of America's Constitution and for Future Freedom.

This country was set up with small local governments so we could have government Of, By, and For the People.

How can needs of people be known at a Regional level without a complete Local system of Government as we now have (or had?)? People settled in different areas have many differing needs. Who can possibly know those needs but those local people. Regional Mandates should not be allowed in



in this United States in my opinion, and there should be no Regional Controls especially of Land Use. Land Use Planning belongs only at the local level if we are to remain a free people in a free country and the E.P.A. should definitely not have the power to initiate Land Use Controls. They should issue guidelines and suggestions and give good logical and true reasons for those. Most people are not stupid and if the need is real, for such, they will be acted upon favorably at the local level, in my opinion.

Why doesn't the Sierra Club, E.P.A., and large cities such as San Francisco face the fact that over-crowding, such as compact development in the Bay Area ~~also~~ would bring about, will also over-pollute and that by over-crowding any area it becomes an undesirable place to live to a great many people. I know many people who have moved away from San Francisco strictly because they felt there were too many people and too much crime. Many people will not ride the Muni Bus nor Public Transportation because of fear of crime. I do not believe the Environmental Management Plan addresses that in any way. If it did, perhaps Congressman Ryan, you would have your answer as to why Montgomery St. is bare. (I believe you asked that question?)

There are many good things stated to be done (Indicated in E.M.I.) but I don't believe there is anything about the adverse effect on the average hard-working man or woman who eventually in

one way or another will have to pay for all of these things who has had very little opportunity, if any, to know what is happening in regards to plans for their future, and how much it will cost them.

Isn't an emphasis being put on "save the cities" instead of where it should be to "save the people and their freedom of choice choice"? (which is a very important part of our American Heritage)

According to a Final Special addition of National League of Cities Congress News, December 7, 1973 (in <sup>San Juan</sup> Puerto Rico), --

Russell E. Train, E.P. A. Administrator said -- quote --- "The Air Quality Effort and the Energy Crisis will increasingly serve to reverse those forces that have been tearing our Metropolitan Areas apart" and he called for -- "a new era of Metropolitan Federalism" -- ~~to~~ unquote -- and he ~~called~~ warned delegates they must prepare for trade-off decision making at the local level. Mr. Alioto was mentioned as a key figure in trying to save cities.

Don't you think the price may be too high in many ways?!!

The above statements ~~of~~ <sup>are</sup> my opinions <sup>and</sup> are true to the best of my knowledge and I wish to express my thanks to you for holding the Congressional Hearing and the opportunity to give input.

Sincerely

Mrs Jessie Bracker  
317 San Pablo Ave.  
Millbrae, Ca 94030



ENVIRONMENT, ENERGY AND NATURAL RESOURCES SUBCOMMITTEE  
HOUSE OF REPRESENTATIVES, U. S. CONGRESS

June 23, 1978

Testimony of Dianne Feinstein  
President, San Francisco Board of Supervisors  
Chairman, ABAG Environmental Management Task Force

When I was first asked to head the Environmental Management Task Force I was indeed skeptical about the potential for success in this project.

The project, of course, was that ABAG, essentially a voluntary organization of cities and counties, would prepare a comprehensive environmental plan, draft it and have it approved by over 100 Bay Area local governments--all within two years. To me that didn't sound like the ingredients of success. Now that it's been done, I can say it's been one of my most rewarding political experiences.

The preparation of the plan showed that--given the right circumstances--a plan of action can be worked out among environmentalists, labor, business and elected officials. Like all political decisions it must rely on a willingness of various interests to give up some part of their agenda to accomplish some common good. Before this grant was available there did not exist a political forum to work out the agreements. The 208 program made possible the Environmental Management Task Force. This forum proved instrumental; without it, without labor, business and environmental interests as serious members of the task force, there would have been no locally agreed upon plan.

The second point I'd like to make is that local governments--even knowing the plan would have the force of law once adopted by EPA--had to be convinced that their participation would make a difference. A lot of discussion and time went into convincing State and Federal officials that after cities and counties approved the plan, EPA and the State agencies would not make arbitrary changes. We have their word on this--but that part of the process remains. But we remain optimistic. Your committee should know though that the law does not prevent EPA or the State from changing the plan without first referring it back to local governments for their concurrence.

A third point I wish to make is that this experience demonstrates that environmental planning can be done by local governments; but the key to its usefulness is that it be done in a comprehensive manner. The integrated approach--water, air, solid waste- gave us a chance for example to find out how water projects affect air quality. But it did more than that. It provided citizens with comprehensive information on what it would take to clean up the environment in the Bay Area. The task force insisted on a high level of citizen involvement throughout the process. It wasn't surprising to find that citizens were not especially concerned about this project until the plan draft was released. Once the plan was published last year in December, citizen response changed dramatically. Over 15,000 people attended workshops, conferences and hearings on the plan. ABAG received over 1,600 pages of written comments from citizens, special districts, and local governments. Many special interest organizations hired full-time staffs to monitor progress on the plan. And during the local approval process, the EMP received widespread newspaper and TV coverage. I might add that, on occasion, the media's high interest in the plan produced an overzealous news presentation.



Beside better citizen involvement, the integrated approach enabled decision makers to understand the total cost of environmental management; to know that surface runoff can be controlled by street cleaning (all it takes is money); that the remaining San Francisco Bay water pollution problems are complex and don't lend themselves to easy solution; that land use management won't produce dramatic changes in air quality over a short time; that re-introducing shellfishing in the Bay is not financially out of reach; that a moderate amount of water conservation can keep capital costs down for water supply projects but not necessarily for water quality projects.

The integrated approach did one other important thing. It demonstrated that the single purpose approach--that is, doing air quality planning independently from other planning considerations--is really not acceptable in the future. This is a very important point. A regional plan is needed to set a general course of action for cleaning up the environment. But that plan cannot answer the question of how to literally balance environmental objectives with economic and social considerations. It can be done only on a project-by-project basis. You can have the most articulate, elaborate plan in the country, but you must still apply it to each circumstance as it arises. For major projects of regional significance a formal policy body is needed to guide the regulatory agencies on how to proceed with respect to each project. If a major industry wants to locate in the Bay Area and it is deemed socially and economically beneficial, there should be a means for deciding which of our objectives should take precedence and at what price. You don't have to be involved in planning long to know that objectives will always be in conflict because any decision by the government will have a negative impact on someone. These kinds of conflicts must be resolved by a formally designated body. Resolving conflicts demands

a comprehensive set of facts and integrated planning. We did not solve this dilemma in our first round of 208 environmental planning. But it is a point we must eventually reach.

It's my firm conviction that the procedures we used here can provide a national model. I feel that your subcommittee should do whatever it can to formally recognize in Federal law local governments' responsibility for preparing a comprehensive environmental management plan and for establishing procedures for deciding the proper balance among economic, social, and environmental needs.

Balancing economic and environmental actions is a very complex and difficult matter, fraught with local nuances. The Federal government should foster procedures and programs that advance local understanding of the issues and permit decisions to be made locally on the kind of region citizens want,

Finally let me say that before we started this process the public knew very little about the Federal Water Pollution Control Act or the Clean Air Act. The EMP clearly demonstrated what it would take to carry out these laws. I must say that ABAG and its representatives took a great deal of heated public reaction, especially on ways to control air pollution. But the heat and the debate resulted in a plan tailored to this metropolitan area. Under those circumstances and with the kind of initial reaction that needed debate among local officials and those they represent, I doubt very much that a Federal or State agency could have prepared a plan endorsed by local governments-- a plan that now has a good chance of being carried out.



June 30, 1978

The Hon. Leo J. Ryan, Chairman  
 Subcommittee on Environment, Energy,  
 and Natural Resources  
 House of Representatives  
 Rayburn House Office Bldg., Rm. B-371-B  
 Washington, D.C. 20515

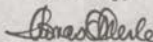
Dear Congressman Ryan:

During your recent two day hearing on the ABAG Environmental Management Plan you indicated you would keep the record open to receive additional comments on the Plan and related issues. We would like to take advantage of this extension to augment our testimony with some additional recommendations which focus on the federal framework within which the ABAG effort had to be formulated--the Clean Air Act. We hope that the report that grows out of the hearing will reflect the concerns we touch on in this and that eventually you can muster support among your colleagues to revise the Statute accordingly.

We also want to thank you for inviting us to participate in the oversight forum. You provided a valuable opportunity for public officials and representatives of concerned groups to assess the ABAG two year undertaking.

If we can be of further assistance, please don't hesitate to call on us.

Sincerely,



Thomas O. Merle  
 Associate Director

TM/dp  
 Encl.

e Bay Area Council,  
 published in 1945, is  
 private, non-profit  
 organization involved in  
 search and advocacy  
 worldwide public  
 policy issues such as  
 environmental quality,  
 economic vitality,  
 transportation, and  
 global planning and  
 resources.

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# DAI AREA COUNCIL

June 30, 1978

## ADDITIONAL COMMENTS RELATING TO THE ABAG ENVIRONMENTAL MANAGEMENT PLAN: PROPOSED CHANGES IN CLEAN AIR ACT

### Progress in Cleaning the Air

The Committee should note the significant improvement in air quality in the Bay Area and elsewhere as a result of pollution controls over the past several years. Attached are several documents from the Bay Area Air Pollution Control District which describe the gains made in this region. The Clean Air Act itself (Section 101 (a) (2)) does not recognize the improvements that have been made. As a starting point, Congress should recognize the substantial improvements as well as the further cleanup job that must be done.

### Basic for National Ambient Air Quality Standards (NAAQS)

Section 109 (b) (1) and (2) provide direction to the EPA administrator for setting NAAQS. In setting primary standards the administrator is required to protect the public health with an adequate margin of safety. In setting secondary standards the administrator must protect public welfare from any known or anticipated adverse effects. As a result of this direction, the administrator inevitably sets overly stringent standards. In our view Congress should direct the administrator to place top priority on protecting public health and welfare but also to take into account socio-economic side effects and feasibility of attainment in setting the standards.

### Requirements for Non-attainment Areas

In amending the Clean Air Act in 1977, Congress set up time tables for attaining the primary NAAQS which are impossible to achieve in some urban areas of the country (for example Los Angeles). While we agree that all reasonable measures should be taken in an attempt to meet the standards by 1982 and that an extension for oxidants and carbon monoxide beyond 1982 will be required in many areas, we do not agree with 1987 as a final deadline date. Section 107 (a) (2) should be modified to read "...not later than December 31, 1987 or as expeditiously as practical." EPA Assistant Administrator David Hawkins is quoted in "Air/Water Pollution Report" (copy of page attached) saying that 10 to 15 cities (read air basins) will still not be able to attain standards in 1987 even under the proposed upward revision in the oxidant/ozone standard.

The definition for Lowest Achievable Emission Rate (LAER) in the Clean Air Act is unacceptable. While stringent technology-forcing pollution controls should be required on new sources in non-attainment areas, economic considerations must be taken into account. The definition for LAER allows no such economic considerations.



In certain instances, emission offsets or a growth allowance may not be available in non-attainment areas for vitally needed new facilities. The governor of a state should have the right after appropriate public hearings to waive the federal conditions for allowing new sources. This waiver should be used seldom and very selectively, but on occasion it may be needed.

#### Prevention of Significant Deterioration (PSD)

Part C of Title I of the Clean Air Act dealing with PSD should be extensively modified to deal with the real problem of concern; that is, protection of pristine wilderness areas. Ideally, Class II and III should be eliminated from the Act. All areas outside of and not adjacent to Class I areas should only be required to attain the primary and secondary NAAQS.

If this approach is not feasible, consideration should be given to (1) greatly increasing the difficulty of redesignating an area from Class II to Class I, (2) expediting the procedure for redesignating an area from Class II to Class III and (3) eliminating the increments in Class III and requiring only attainment of primary and secondary NAAQS in Class III areas.

The definition of "major emitting facility" in the PSD section has caused great difficulty, primarily because of differing interpretations of the word "potential." The Act should be changed to clarify what is meant.

#### Additional Minor Points

In Section 107 (d) (1) (B) non-attainment should apply only to the current situation for sulfur dioxides or particulate matter and not to a projected future situation. On this basis several areas of the country would be correctly classified as attainment areas rather than non-attainment areas for these pollutants.

In Section 108 (c) the EPA administrator should be directed to update the criteria documents on a definite time table, say every five years rather than "from time-to-time."

Our reading of Section 116 would indicate that states may not have the right to set their own ambient air quality standards but rather can set only emission standards and the corresponding controls. The wording in the Act should be clarified to preclude states from setting ambient standards more rigorous than the national standards for nationally regulated pollutants. States may need to set standards for other pollutants of only local concern. (See attachment, also from "Air/Water Pollution Report," summarizing study of South Coast Air Quality Management District, describing cost to industry in Los Angeles area of meeting tougher California SO<sub>2</sub> and sulfate standards. As the Bay Area is compelled to burn less natural gas, we will be faced with the same situation.)

Section 211 of the Act is ambiguous with regard to required testing of fuels and fuel additives. Section 211 (a) (2) allows the EPA administrator discretion in specifying tests for using the word "may." However, Section 211 (e) (1) requires the administrator to issue regulations for testing of fuels or fuel additives within one year after enactment. In our opinion, the administrator should retain the ability to decide on the need for tests. Otherwise the development of new fuels and fuel additives may be precluded.

June 23, 1978

Hearings on ABAG EMP Air Quality Section

Good Morning

My name is Larry Smith. This morning I am serving as spokesman for the Construction Industry Association of Sonoma County, The Sonoma County Board of Realtors, The Sonoma County Alliance, and the Building Trades Council of Lake, Mendocino, and Sonoma Counties. These groups' membership and constituencies account for approximately one third billion dollars in economic activity and probably a third of Sonoma County's work force.

Though some of the cities belong, the County of Sonoma is not a member of the Association of Bay Area Governments. Even so, ABAG has assumed some planning jurisdictions in our county. The draft EMP proposed planning concepts and implementation procedures which we found not only offensive, but in contrast to our General Plans and the well-being of our people. We spoke in opposition to the draft plan in general and in particular to the land use proposals introduced under the guise of environmental protection. We have read in the news media that some of these proposed controls have been eliminated, but some of the local representatives say that what has actually occurred is simply a semantic detour. The fact that we don't know for sure says something about the quality of the communications mechanism of ABAG. If this hearing panel were to travel to Sonoma County next week with the sole purpose of finding out the content of the air quality ~~of~~ portion of the EMP, I would venture to say that you would have a difficult time finding any materials to review or knowledgeable people with whom to discuss air quality with beyond the few representatives from the cities that do belong.



It is difficult enough for the residents of Sonoma County to plan for their own future. The formation of growth management plans and General Plans is a grueling process. We question the ability and motives of outside entities to plan for us - as ABAG has done.

We realize that it is imperative that environmental planning be done in order to qualify to federal assistance for many capital improvement projects, but would not copies of the general plans of the areas suffice in the event that had incorporated all the appropriate elements. A regional entity can be useful in solving interjurisdictional disputes and expediting cooperative projects affecting two or more counties, but, in our opinion, an endorsement of regional control is to relinquish local control and perhaps authorize questionable added layers of bureaucracy.

We have adopted general plans with the central themes of environmental protection, preservation of agriculture, central cities with infilling and contiguous growth and green belts separating the cities. Our general plans express the intent to attract clean industries to employ people who now commute.

Speaking of commuting..... Perhaps our basic message today is that we oppose an air quality planning concept we hear quite often. That concept could be summarized like so: "If you have reserve capacities in your sewer plants and water supplies, that is an incentive to growth, thus you will build more homes and businesses which will bring more people and more people means more automobile usage which means poorer air quality, so this or that agency will frown upon applications for expansion of your sewer or water facilities, etc. Further, we would like to discourage auto usage now by adding to bridge tolls and put parking meters in shopping centers, etc. We have several conflicts with this type of perspective. High quality air to breathe is a

basic need. So is shelter. Governmental agencies serve as the instrument our society uses to protect air quality. The private sector construction industry serves as the instrument through which our society houses its people. Due to a variety of reasons, the construction industry is far behind schedule in meeting the needs for housing. According to the Urban Strategy for California, the State's planning document, we need a quarter million housing units built every year between now and 1982 in addition to maintaining and rehabilitating the existing stock to meet the housing needs of Californians. To meet these needs, sewer and water and transportation facilities adequate to serve this new population is a must. The conflict should be obvious by now. What we propose is that if auto emissions are serving as justification for further land use regulation, a federal, state, and local governmental focus change is warranted. It makes sense to us that if auto emissions are a problem, and we acknowledge that they are, it would be appropriate to get at the source --- Detroit. Clean up the autos before they hit the street. Houses don't create air pollution. To emphasize the importance of the economics I referred to earlier, I will share some data which I believe emphasizes the need for less, not more regulation on the housing industry.



### "A Silent Revolution"

Not long ago, a Walker and Lee consumer survey revealed that only 16 percent of the Californians polled felt that the "primary" cause for increasing home prices was attributable to "government red tape and requirements." Most (61 percent) believed the main reason for the ballooning price of new housing was caused by the increase in wages, followed closely (56 percent) by the belief that the cost of materials was the principal contributor.

Yet, an exhaustive study conducted by the Construction Industry Research Board revealed the following facts:

1. The price of a typical home in California (1,500 square feet) climbed from about \$31,000 in 1970 to just over \$59,000 six years later — an increase of 88.2 percent.
2. The largest single contributing factor to the massive increase was the skyrocketing cost of financing the construction of the home. It shot up 145.1 percent in six years. Why? First, inflation led to a far tighter money market. Second, the mounting delays prior to construction being started — delays caused by increased government regulation — greatly lengthened the financing period and with it, overall financing costs.
3. The next largest contributing factor to the soaring price of a new home was what is termed "improved land costs." This includes those recently added steps, procedures and other measures the government now requires the builder to take prior to allowing him to drive the first nail. These costs shot up 124.2 percent in six years. The CIRA study also noted that "the cost of governmental regulations, procedures, environmental review and land use restrictions can amount to 12 percent of the home price and, in some cases (particularly where excessive delays occur), governmentally induced costs will comprise as much as 20 percent of the home price." Specifically, with a "typical" California home — that is, one costing about \$59,100 — the "governmentally induced" cost of that house's overall price tag is just over \$7,000.
4. The study also showed that, contrary to what California consumers believe, the combined increase in the cost of labor and materials for a new house, while rising 65 percent in six years, was now actually less a part of the home's total cost than before. In fact, in 1970, labor and materials made up about 56 percent of the total cost of a typical home in California. In 1976, those two factors, labor and materials, amounted to 49 percent of the total cost of the same home.
5. And finally, the builder's percentage of profit on the total cost of the new home dropped in six years from about 7 to 6.5 percent.

So what Californians believe are the main causes and what are, in fact, the real causes for the soaring price of a new home are quite different. And this is troubling. For recent history suggests that Californians, feeling the blame for rising prices of new homes and other kinds of construction rests squarely with the construction industry itself, may turn to their legislators and the government and demand they take an even firmer hand to correct the situation. In other words, frustrated, angry and uninformed, Californians may push for an even greater degree of government regulation of the construction industry.

Professor Murray L. Weidenbaum, one of the nation's leading experts on government regulation, summarized the growing dilemma this way:

"This is a silent revolution in many ways. It is not led by a host of noisy trumpeters. It is not intentional or even noticeable to the day-to-day observer. But that does not alter its deep impact."

"The change that our industrial economy is undergoing must be understood as a bureaucratic revolution, not a conspiracy. What is involved are the lawful efforts of governmental civil servants going about their routine and assigned tasks, tasks whose purposes are hard to deny. Who, after all, is opposed to cleaning up the environment? Or enhancing job safety? Or improving consumer products?"

"Yet, if we step back and assess the long-term impact on the private enterprise system of the host of government inspections, regulations, reviews and subsidies, we find that the fundamental business-government relationship is being changed (and that) increasingly the government is participating in and often controlling the internal decisions of business, the kinds of decisions that lie at the heart of the capitalist system."

CITY HALL • 170 SANTA MARIA AVENUE • PACIFICA, CALIFORNIA 94044



355-4151

MAYOR  
Nick Gust

MAYOR PRO TEM  
Stanley M. Farber

COUNCIL  
Mark Savage  
Ellie McGuire  
Fred Howard

Scenic Pacifica

CITY MANAGER  
Donald G. Weidner

June 27, 1978

The Honorable Leo Ryan, Chairman  
Subcommittee on Environment, Energy, and  
Natural Resources  
Room B371  
Rayburn House Office Building  
Washington, D. C.

Dear Mr. Ryan:

Pacifica regrets not having the opportunity to make a presentation on ABAG's Environmental Management Plan (EMP) during your subcommittee's hearings in San Francisco on June 23 and 24. Please enter this letter in your committee's formal record as our city's official position concerning the plan.

The Pacifica City Council and its staff have consistently opposed the EMP for the Bay Area because it is premised on unrealistic and unattainable Federal standards. We are also strongly concerned that Congress' environmental legislation and adoption of the EMP will allow Federal and State enforcement agencies too much intrusion into and control over the day-to-day affairs and operations of local communities.

Concerning our first point, to our knowledge no satisfactory evidence has ever been produced to support the arbitrary and unreasonably strict technical requirements for clean air and clean water demanded by the Environmental Protection Agency (EPA) in ABAG's plan. In the same vein, we have never been shown any evidence that present air quality in the Bay Area threatens the public's health. Given all the strict and effective environmental controls now covering the Bay Area, we feel that decisions on additional air and water pollution control are no longer appropriate for technical decision-makers in the Federal bureaucracies to make. We believe these decisions have now reached the level of social and economic value judgments which must be made by the affected public and elected officials directly accountable to them. The objectives and regulations in the EMP were not chosen by the people of the Bay Area. They were imposed in an arbitrary and unjustified way by the sponsoring agency, the EPA. We feel these objectives were subjectively selected to satisfy non-scientific programs. They appear to be aimed more toward the "reformation" of urban behavior rather than scientifically justified clear air and water standards.

Path of Portolá 1769—San Francisco Bay Discovery Site

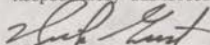


Our City Council and staff, with many others in the Bay Area, are convinced that there is no way of accomplishing all the Federal clean air and water standards without imposing severe growth limitations and other social and economic restrictions on residents, commerce, and all public institutions operating in the Bay Area. We are equally convinced that when a majority of the voters and taxpayers realize the social and economic costs and restrictions connected with the BMP, they will no longer tolerate its imposition upon them. There has just been a vivid demonstration in California in the form of Proposition 13 showing what the voters can do when they decide they have been over-taxed, over-regulated, and over-legislated.

There is also great concern in Pacifica and other parts of the Bay Area about the new opportunities for Federal and State agencies to further intrude into local government operations and regulate community affairs. The EPA and some State agencies have already expressed strong dissatisfaction with the BMP as adopted by ABAG. They have issued threats to rewrite portions of the plan and issue sanctions and financial penalties on local agencies which do not conform to their dictates. The Pacifica City Council submits that distant Federal bureaucracies, isolated by layers of procedures and paperwork, do not know anything about what it really takes to operate local government. We believe their bureaucratic behavior will be extremely disruptive to the efficiency and democratic processes in our cities. There are already many examples of arbitrary and senseless restrictions on local communities because they failed to meet irrational rules and regulations imposed by Federal and State agencies.

If Congress' environmental laws and EPA regulations imposing them on local government are allowed to continue on their present course, we fear a final erosion of local government's autonomy and effectiveness. We do not believe Congress intended this to happen and we urge your subcommittee to critically review both Congress' intent when adopting clean air and water legislation and the EPA's enforcement posture as they relate to the real issues. We do not believe the creation of a pristine environment was meant to replace local autonomy and social and economic balances in the country's urban areas.

Respectfully submitted,



Nick Gust, Mayor

cc: City Council  
Association of Bay Area Governments  
Press

bn

Testimony of Frank Wilts, San Leandro California Manufacturers' Association Before the Subcommittee of the United States House of Representatives Committee on Government Operations on the Matter of the San Francisco Bay Region Environmental Plan on June 24, 1978.

Mr. Chairman, Members of the Subcommittee, my name is Frank Wilts. I appear as a representative of the San Leandro Manufacturers' Association, having served as a Director of that organization for the past three years. I appreciate the invitation extended to me to appear before the Subcommittee and for the opportunity to share with you our views on the San Francisco Bay Area Environmental Management Plan.

Before responding to the four basic questions posed by your letter of invitation, let me take a brief moment to tell you about the San Leandro Manufacturers' Association. This organization has served the San Leandro business community for twenty-five years. It speaks in behalf of approximately eleven hundred operating plants and distribution centers who employ in the neighborhood of twenty-five thousand residents of the Bay Area. The largest employers in the San Leandro business community are Caterpillar Tractor Co. and Western Electric.

The Manufacturers' Association has had more than a passing interest in, and knowledge of, the Environmental Management Plan. Past presidents and directors of the organization have served in the past and continue to serve on Citizens' Advisory Committees concerned with the various sections of the Plan, and therefore helped to influence it in its development. Members attended numerous meetings of the Environmental Management Task Force which formulated the Plan and, through oral and written communication, informed our Representatives on that Task Force of our position with respect to the Plan. When summaries of the Plan were made available to the Bay Area community, copies were sent to each member company of the Association, which provided the foundation for membership discussion and



formulation of an Association position which was communicated to the Task Force and to our representatives in the community. My testimony before you today is based upon that participation and represents the conclusions reached by the Association.

Mr. Chairman, your letter to me asked that I give the Committee the benefit of my advice and recommendations concerning the Environmental Management Plan. You asked specifically that I make an assessment of the Plan from the point of view of the business community. You asked whether I believe the business community of the area has been, or will be, placed in a disadvantageous competitive position and whether I believe that the Federal Environmental Control Requirements should be changed, and finally, how these requirements should be changed. I will address myself to those questions in the order just outlined.

With regard to my assessment of the Plan - Let me lead off by saying that I agree with the need for a Plan to control and maintain a reasonable living and working environment and I believe that the Environmental Management Plan for the Bay area is a step along the road toward formulation of an acceptable Plan, but it is not now acceptable for the following reasons:

FIRST, its most serious deficiency is that it will produce adverse social and economic effects in its attempt to meet existing environmental standards. Authors of the Plan admit that basic industries might not be able to locate in the Bay Area. We cannot all be in service jobs to one another, or on a Federally financed program. Basic profit producing industries must be expanded in the area, not squeezed out. The San Francisco Bay Regional Plan for the years 1970 to 1990, authored by the Association of Bay Area Governments, projects a population growth from 1970 to 1990 of in excess of two and one-half million people. Projections for manufacturing employment alone call for an increase of one hundred and seventy-five thousand jobs in that same period. This is the real world which the Plan must accomodate.

SECONDLY, it incorporates unnecessarily strict standards regarding air emissions - even more stringent than the recently revised Federal Regulations. Here are two examples: With respect to suspended particulates, the 24 hour national standard is 260 grams per cubic meter. The California standard is 100 grams. With respect to sulphur dioxide, using the 24 hour time period analysis, the Federal Standard is 0.14 parts per million, while the California Standard is 0.05 parts per million.

THIRDLY, it calls for measures that are very costly and are only marginally effective in reducing pollutants. While many of these were in Land Use and Transportation Controls, which were either modified or dropped from the Plan, many areas still remain and we are concerned that they may still be incorporated at a future time in an attempt to comply with unrealistically strict standards.

FINALLY, it provides for still further layers of bureaucracy which administrate, analyze, review, survey, monitor, report and promulgate additional regulations which are not only more costly to industry and all citizens, but unduly complicate the process of sorely needed industrial and commercial growth.

With regard to whether the Bay Area business community has been, or will be, placed in a disadvantageous competitive position, our answer is a "yes".

Its most direct adverse effect is that it causes increased cost of production and of doing business in general, generated by the unnecessary expenditures to meet the various air, water and waste discharge regulations.

The basic industries of oil, chemical and steel making, who either cannot expand or cannot operate at present levels, or who would like to locate in the Bay Area and cannot, are themselves disadvantaged - as well as



the users of their basic products who now must go elsewhere to obtain these basic products, usually at increased costs.

As the industrial base shrinks the tax burden increases on those industries remaining, causing an even further deterioration of their cost competitiveness.

We in the Bay Area lose our competitive position within our own state, within the country and, finally, with our world wide competitors. Our international trade balance is further deteriorated.

Your letter asks whether we believe the Federal Environmental Control requirements should be changed. Again, our answer is affirmative. Let me assure you, however, that we do not recommend that Federal Regulations be abolished .. We understand that when Federal Regulations were passed and environmental standards were set, the underlying concern was protection of the public health.

We believe, however, that in the time that has elapsed since the promulgation of the first Regulations, a greater insight has been gained as to what levels are injurious to health and to what degree they are injurious. We believe we should make use of this information to more carefully and intelligently weigh the benefits of a cleaner environment against the adverse social and economic impact of current regulations.

We should remove and strike in its entirety the concept of a "no risk philosophy" in our Regulation policy, which in turn generates the absurd "no growth" attitude in the face of the real world of population growth that we mentioned early in our testimony.

Having indicated that we believe that environmental control requirements should be changed, let me briefly outline how we think this change should be made: -

FIRST, the basic Standards should be reviewed in the light of the newly developed information and relaxed to the degree that it is deemed justifiable.

SECONDLY, State, national and local agencies should be prohibited from setting even stricter standards than are set at the national level.

THIRDLY, Timetables for compliance need to have the flexibility to accommodate those more difficult pollutant areas within our nation. Reasonable timetables based on well defined plans which do not produce undue social and economic impact should be acceptable.

In summary, then, our position is:

The present Environmental Management Plan is unacceptable and needs modification to reduce its adverse economic impact.

Meantime, State and Regional Standards of environmental pollution should be rolled back to Federal levels.

Federal Standards should be re-evaluated and modified, and timetables for compliance should be changed from arbitrary National dates to regional-local time frames which are based on meaningful, well-defined plans for improvement.

FINALLY, we believe it is absolutely essential that all of the above be done with less bureaucracy and fewer regulations. We should provide streamlined and shortened times for review and approval of new industries.. And, most of all, we need to do all of the above at reduced cost. Industry must operate on this criteria to survive. Government can be judged by no less a standard.

That is the end of my testimony. May I once again thank you for this opportunity to appear before you.

*F.E. Wilts*  
F.E. Wilts



# COLAB

## COALITION OF LABOR AND BUSINESS ALAMEDA & CONTRA COSTA COUNTIES

1030 Shary Court, Suite B - Concord, California - 94520  
415/676-3272

### FOUNDER MEMBERS

Associated Building Industry  
Aggregates & Concrete Assoc.  
East Bay

Alameda County  
Building Trades Council

Associated General Contractors  
East Bay

Contra Costa  
Building Trades Council

Contra Costa  
Central Labor Council

Contra Costa County  
Development Association

East Bay Construction  
Equipment Dealers

Operating Engineers Local No. 3

Plumbers & Gas Fitters  
Local No. 444

Plumbing, Heating, Piping  
Employers Council

Steamfitters Local No. 342

Underground Contractors  
Association - East Bay

### STATEMENT OF COLAB TO

THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES SUBCOMMITTEE

OF THE COMMITTEE ON GOVERNMENTAL OPERATIONS,

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

Delivered by

Bonnie England, COLAB Executive Secretary  
June 24, 1978 at San Francisco, California

COLAB has given its qualified endorsement to the ABAG compromise Environmental Management Plan. Our one qualification and the most urgent subject requiring Congressional inquiry, is the "no-risk" philosophy embodied in the Clean Air Act.

That "no-risk" philosophy has led to ambient air quality standards which are well beyond the point proven to be necessary to protect human health. If these standards produced no significant adverse social or economic effects, we would all indulge the luxury of overly conservative restrictions.

Such is not the case in the Bay Area or in 128 other "non-attainment" areas across our nation. In point of fact, the very plan we all have endorsed assumed a ban on many heavy industries and a moderate to slow increase in the population of the Bay Area. We understand that the situation may be far worse in other areas, but we expect to be among a growing chorus asking if what we are being made to accept is really necessary.

Indeed, the entire ABAG General Assembly (as a part of the plan) has requested Congress to review this "no-risk" philosophy. In this regard it is critical to note that ABAG assumed the standards as a "given" and most of us endorsed the plan despite our grave concerns because only Congress can change the philosophy of the Clean Air Act. We recognized that such changes are slow in coming and that the current January 1, 1979 deadline is but six months away.

No one will blame Congress for adopting the lofty goal of a "no-risk" philosophy some years ago. After all, no one really knew what such a goal would cost. However, now that we know the price we would think that Congress would wish to make appropriate adjustments.

COLAB has commissioned a paper by R. Robert Brattain entitled "Ambient Air Quality Standards: Goals or Gods?". The paper raises the issues which we feel must be answered. A copy of this report has been forwarded to the California Congressional delegation and is attached for this record. The most telling point made by Brattain is that the "no-risk" philosophy embodied in the Clean Air Act forces a huge margin for error in current



standard setting without any hard medical evidence. We are convinced that society cannot and does not function on a "no-risk" basis and that we should not be made to go the last mile without hard evidence.

We believe that Congress and the public are ready to challenge the "myths" surrounding the ever-changing definition of "clean air" because we now know the costs of the current definition and because we all have been witness to all too many other illustrations of environmental overkill.

Thank you.

# COLAB

## COALITION OF LABOR AND BUSINESS ALAMEDA & CONTRA COSTA COUNTIES

### FOUNDER MEMBERS

Associated Building Industry  
Aggregates & Concrete Assoc.  
East Bay  
Alameda County  
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Contra Costa  
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Operating Engineers Local No. 3  
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Plumbing Heating Piping  
Employers Council  
Steamfitter's Local No. 342  
Underground Contractors  
Association - East Bay

1030 Shary Court, Suite B - Concord, California - 94520  
415/676-3272

April 25, 1978

TO: Senators Cranston and Hayakawa  
and the California Congressional  
Delegation

FROM: COLAB, by Bonnie England, Executive Secretary

RE: Federal Air Quality Standards

As you may be aware the Association of Bay Area Governments (ABAG) is just completing action on an air quality management plan for the San Francisco Bay Area. The study and the plan which it produced is the first of its kind in the nation and provides us all (including Congress) with the first objective case history of what the Clean Air Act really means to 128 "non-attainment" areas in the nation.

It is perhaps ironic that, to us, the main thing that the ABAG effort has established is that cleaning up the air is very expensive and that the federal standards may be too tough. We are hopeful that the ABAG experience will precipitate further congressional inquiry into the current standards.

We are not unaware that Congress, perhaps motivated by some of the same concerns, ordered an independent review of the standards and to report back in 1982. While we commend this step we do not now feel it goes far enough.

Specifically, our concerns regarding the status quo are as follows:

1. A mere review of the standards does not give us a review of the "no risk" philosophy embodied in the act itself; and
2. If, as we believe, the standards are too harsh and are changed, there will be no making up for the industrial growth lost between 1978 and 1982; and



3. The independent review itself, as of our latest information, has not been started and hasn't even been funded;
4. Our support of a plan in the Bay Area prior to the January 1, 1979 deadline mandated by Congress may be misconstrued as endorsement of the current standards.

We at the grass roots level hope that you can help precipitate the kind of inquiry which needs to be done.

To help further identify some of the many issues which need to be explored in this inquiry and as added support for the kind of broad inquiry we desire, find enclosed a paper by Robert Brattain. As noted, Brattain is a former member of the California Air Resources Board and is well known in air quality circles. The paper was commissioned by COLAB primarily because of our concern that there was no probing inquiry being made of the standards under which we labor.

We at COLAB support "clean air" but do not want to pay the price for a pristine environment or otherwise participate in an economic or social revolution in the name of public health. We hope Congress and the administration would agree.

cc: President Carter  
 Governor Brown  
 EPA  
 EPA Region IX  
 ABAG  
 SCAG  
 California State Legislative Members  
 California Cities and Counties  
 Governors of 128 other "non-attainment areas"  
 Trade Associations

Enclosure - as stated

R. Robert Brattain has spent more than thirty years in environmental control work, both from the technical and regulatory viewpoints. His experience has been almost exclusively in air pollution control. He served on the first technical committee on Los Angeles smog starting in 1947; this was the committee which guided the early work on air pollution at Stanford Research Institute. Following this he was a member of the advisory committees for two American Petroleum Institute research projects, including the one which identified the mystery component of smog now known as PAN. He was then a member of the BAAPCD Advisory Council, at which time he was one of two principal authors of Regulation 2. Later he was chairman of the Technical Advisory Committee to the California Air Resources Board (CARB) and became a member of the first five-member CARB after it was reorganized along its present lines. Before, during and after this service on CARB he was a member of the committee which selected the air pollution research projects to be supported with state funds. From 1971-1975 he chaired two panels which assisted the National Academy of Sciences in the preparation of their two reports to Congress on automotive air pollution. He has just recently completed another term as a member of the BAAPCD Advisory Council.



AMBIENT AIR QUALITY STANDARDS:  
GOALS OR GODS?

prepared by R. Robert Brattain  
under a grant from COLAB  
The Coalition of Labor & Business,  
Alameda & Contra Costa Counties.

EXECUTIVE SUMMARY

"Truth is like the face of the Medusa. If  
you face it directly, you may be petrified  
by fright." - Garrett Hardin.

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Copies of this report are available from the COLAB office while supplies last.  
Write to 1030-B Shary Court, Concord, CA 94518, or telephone 415-676-3272.

PREFACE

This report recommends rejection of the Draft Air Quality Maintenance Plan (AQMP) prepared by ABAG. This recommendation is based on the fact that the objective of the plan is incorrect and on the belief that the need for the plan has been overstated.

The objective of the plan was not chosen by the people in the Bay Area or by the ABAG staff; the stated objective is a requirement imposed by the sponsoring agency, the EPA. Consequently, this report is not a criticism of the staff who prepared the AQMP or of the work which led to the draft. Actually this report agrees with many of the basic conclusions arrived at by the staff, although it states these conclusions in much blunter language. These conclusions were inevitable results of the constraints under which the AQMP was prepared and, in particular, of the required objective of the plan.

The mandated objective is "to attain and maintain the Federal and State ambient air quality standards (AAQS)". This is not really an objective, even in the minds of those who required it; rather, it is a means to an end. The end result of attaining the standards is supposed to be protection of the public health and welfare. This objective is legitimate, but it has been distorted to mean

"attainment of air quality which represents zero risk to the health of the most sensitive groups of individuals, regardless of the social and economic costs and regardless of whether the same effort would have greater health benefits, if spent in another fashion".

The need for the plan is based on the supposition that the present air quality in the Bay Area is endangering health.

It is with this statement of need and with this distorted meaning of the objective that this report disagrees. The statement



of need is incorrect. The stated objective, as applied in managing public behavior, is contrary to the basic objective which we use in developing laws and rules to manage our behavior in all other aspects of social and economic life in order to protect the public health and welfare.

As the title page indicates, this report is a summary of a larger report which discusses in detail the reasons for the conclusions given on the next page. Copies of this Executive Summary and the longer report may be obtained from the COLAB office.

### CONCLUSIONS

1. There is no way of attaining and maintaining the present oxidant standard in the Bay Area except limiting the growth of the Bay Area.
2. The important decisions in air pollution control are not technical, rather they are social and economic and, hence, they should be made by public officials who are directly accountable to an informed public,
3. The real cost of air quality control must be measured in terms of other worthwhile social goals which cannot be attained because of the effort spent to control air quality.
4. The scientific evidence on which the present standards are supposedly based and the manner in which these standards were selected do not justify either their blind acceptance as correct or the social and economic costs of attaining them.
5. The real objective of an air quality maintenance plan should be to achieve a degree of air cleanliness which, in balance with other social and economic factors, will maximize human satisfaction.

Corollary. Attaining and maintaining the present air standards is not a true objective.

6. It is possible to set standards for the Bay Area which will achieve a reasonable balance among all of the factors which contribute to human satisfaction, including air which is healthful and pleasant to breathe.

### INTRODUCTION

Misconceptions planted in the public mind by continual repetition of such phrases as "clean air", "extra deaths from air pollution", "you can't take risks or consider money when health is involved", "return to nature as it was", "man is ruining the environment" and "standards set to protect public health" have made it almost impossible



to discuss air pollution control in a reasonable manner. These phrases are either incorrect or meaningless, or both. One example will suffice; there are no "extra deaths"; we all get one and only one.

It is the purpose of this report to eliminate the more serious of these misconceptions so that the public will recognize the choices which are available and the real costs of these choices. The public, which must make the final decisions, will then be in a position to do so. The purpose of the report will be carried out by summarizing the evidence leading to each of the above conclusions.

Continual repetition of the above phrases has had another effect which makes rational discussion difficult. These phrases tend to place anyone questioning the validity of the standards on the defensive. No one wants to be in favor of "dirty air" or of "ruining the public health". This report is in favor of neither.

1. There is no way of attaining and maintaining the present oxidant standard in the Bay Area except limiting the growth of the Bay Area.

The principal evidence supporting this conclusion comes from documents issued by the EMTF during and after the development of the Draft Air Quality Maintenance Plan (AQMP). This is true whether it is assumed that the AQMP will or will not attain the oxidant standard.

AQMP Brief No. 3 showed that the "optimistic total hydrocarbon reductions achievable" were significantly less than the reductions required to meet the oxidant standard. The September 1977 Recommendations for the Draft AQMP states on page 50

"If all the current recommendations are carried out, the region will almost - but not quite - meet the standards by 1985. After that, growth will overtake the technology of controls, and the air will begin to get worse again."

AQMP Brief No. 4 states that, even with the population in 2000 held to 5.4 million (lower limit of the Series 3 projections), all of the comprehensive strategy would fall short of the required hydrocarbon reduction by 95 tons per day. A population of 6.1 million in 2000 would increase this shortfall to 154 tons per day; i.e., reducing the population by 700,000 would reduce the hydrocarbon emissions by 59 tons per day.

All of the study to this point showed that the recommendations of the AQMP would not attain and maintain the oxidant standard. This is correct; they will not. However, the EMTF was caught in an impossible situation. EPA and ARB rules require that an acceptable plan show attainment of the standards. Hence, the EMTF had two choices; one, assume a solution where none exists, or two, challenge the system including the EPA and ARB rules. They took the first choice. It was assumed that the addition of New Source Review and Indirect Source Review programs would increase the reduction in hydrocarbons by the needed amount. These two programs do not increase the probability of attaining the oxidant standard, since these programs were included in the comprehensive strategy when the above negative statements were made about the chances of meeting the standards.

The meaning of these two supposedly new, but really old, programs was clearly stated by the staff. In a memorandum dated 9 November, the staff refers to the New Source Review and Indirect Source Review programs as "explicit growth management tools for most significant developments in the region", and they underlined "explicit". In other words, two tools specifically designed to control growth have been added to the plan and these tools will be used to achieve the required reduction in hydrocarbon emissions. The message is clear; whether these two growth-limiting tools will achieve the required reduction or whether further limitations on population are necessary, it is impossible to attain the oxidant standard without limiting growth.



The discussion in this section to this point may appear to indicate that development of the AQMP may not have been worthwhile. Quite the contrary; development of the AQMP demonstrated the truth of the conclusion at the beginning of this section with a certainty which would have been impossible without the study which led to the AQMP.

The preceding discussion is not a criticism of the EMTF (and certainly not of the staff). It is a statement of the basic problem which the public must recognize and solve, if it is to be solved. The choice is clear - either insist on air quality standards which are compatible with other worthwhile social and economic goals or limit the growth of the Bay Area, by continuing the blind acceptance of the present questionable standards.

2. The important decisions in air pollution control are not technical, rather they are social and economic and, hence, should be made by public officials who are directly accountable to an informed public.

A serious misconception about air pollution control is that the important decisions are technical. This tends to exclude the public from decision making, in spite of the window dressing. The fundamental decisions about air pollution control should be made by an informed public through democratic processes because:

- without public support the decisions will not be successfully implemented;
- it is the public's health and the public's welfare that the controls are supposed to protect;
- the important decisions are not technical; they are social and economic decisions which affect the life style of everyone;
- it is the public which pays for the control programs through giving up other worthwhile social goals.

The first two reasons need no supporting evidence and the fourth one is the subject of the next section. The message of the last

section was clear - limit the growth of the Bay Area or change the oxidant standard. Since no one is advocating letting air pollution go completely uncontrolled, the message is really - what balance between air quality and growth is best for the people of the Bay Area. This is a social and economic decision.

3. The real cost of air quality control must be measured in terms of other worthwhile social goals which cannot be attained because of the effort spent to control air quality.

Before the public can make rational decisions about air pollution control they need to know the cost of control, whether the present standards are correct, and what the real objective of an air quality management plan should be. This section discusses the first of these topics.

We can't determine the cost of controlling the environment unless we understand what the environment is. The environment is usually spoken of as if it were some mythical state of clean air and clean water in which plants and animals would lead an idyllic existence if man were just not present. This is nonsense. It is also common custom to use the words "environment" and "ecology" as if they had the same meaning. This is bad english.

Environment is the aggregate of social, physical and cultural conditions which influence the life of an individual or community.

Ecology is the study of the relation of all living things to each other and to all non-living things in their environment.

The definition of environment is simple and nearly everyone accepts it, but few recognize its full meaning and use this meaning when they think about environmental control. It says that the environment includes all of the conditions that influence the life of a community. This broad meaning of environment is reinforced by



the definition of ecology which emphasizes that all living and non-living things are included.

What then constitutes the Bay Area environment? It is not just clean air and clean water. A partial list includes air, salt water, jobs, fresh water, industries, wind, rain, fog, housing, sewage, hills, schools, freeways, museums, shopping centers, birds, airports, art galleries, dams, trees, newspapers, bridges, TV stations, hospitals, cars, medical care, people who write reports, theaters, fish, and most important of all the interactions among all of the mentioned and unmentioned items.

It should be clear that the environment is a vast interconnected web. It has been compared to a system of intermeshed gears; if one of them is turned, all of them turn - some more than others, but all at least a little. It can also be compared to a toy balloon; if pushed in at one point, it bulges out at another point to compensate. This is the most important and fundamental characteristic of the environment

if a change is made at one point in an environmental community (read Bay Area), there must be a compensating change at one or more other points in the community.

The truth of this may be more easily recognized if put into the vernacular. It says "you can't get something for nothing" or "there is no free lunch". It is ridiculous that anyone would doubt the truth of this statement, but all ecological hypochondriacs and many other advocates of strict control either pretend or insist that it does not apply to environmental control.

Phrases such as "money should not be considered where health is involved" or "we are a rich nation and can afford the money to clean the air" are used as if air pollution control were paid for with dollars. Dollars don't build control devices and dollars don't build schools and hospitals. The productive capacity of the society builds all these things, and that fraction of the productive capacity

which is used to control air pollution can't be used to build houses, schools, or dams. If large amounts of capital are used to install BACT on plants, that same capital is no longer available to build other things. Each item of air pollution control is paid for by giving up something else such as a new car, a few washing machines, a new school, a few jobs, some support of the arts, or a ski trip. Cleaner air may be worth the sacrifice of some of these things, but it is naive to think that cleaner air can be paid for in any other fashion. It should be noted that the EMTF staff agrees that this is the real cost, since they stated several times that implementing the AQMP would result in some unpleasant life style changes. Some will say that such unpleasant tradeoffs can be avoided in our complex economy, but they are fooling themselves, if they believe that complexity suddenly makes 2 plus 2 equal 5 instead of 4.

A recent calculation shows that the average worker in the United States will work about 2.5 days per year to pay for the stricter limits on exhaust emissions required by the Clean Air Act of 1977. The benefits of these stricter controls were estimated to be one less cough every 3300 years and one less headache every 1000 years for the average person. The elderly would have one less aggravation of heart/lung disease every 250 years and the asthmatics would have one less attack every 2000 years. The numbers are startling, but more important they illustrate the manner in which the costs of air pollution control should be calculated. Nothing brings this home more sharply than the fact that there are many people in the world who would accept a little more air pollution, if better food, clothes and housing came with it.

It is certainly the public's right to decide which of the other worthwhile things will be sacrificed to get cleaner air; this is a social and economic decision, not a technical one.

4. The scientific evidence on which the present standards are supposedly based and the manner in which these standards were



selected do not justify either their blind acceptance as correct or the social and economic costs of attaining them.

The public has been induced to believe that the ambient air quality standards (AAQS) were set on the basis of sound scientific data at levels essential for protecting public health and that all knowledgeable technical people agree with the values. As a consequence the AAQS have been accepted as correct and as values which must be attained regardless of the social and economic costs. This is given as the fundamental justification for the AQMP. Nothing could be farther from the truth; one recent paper goes so far as to refer to AAQS as a hoax and a fraud on the public.

The present Federal standards were set in April 1971 by the EPA Administrator; not by a consensus of the scientific community, many of whose members were critical then and have continued to be so. At that time the Administrator stated that data which clearly determined the level of each pollutant which is a health hazard were not available. EPA has never stated how they chose the standards, but from available pieces of information it seems that EPA chose to set standards

which will clean the air of the entire nation so as to protect the health of the most sensitive groups, regardless of their state of disease, and with a large enough margin of safety to protect these most sensitive groups even from hazards merely suggested by questionable data.

The social and economic costs of standards based on this extreme zero-risk philosophy were not considered.

What was the result of this method of setting standards?

- a particulate matter standard known to be incorrect, since it has little, if any, connection with health.
- a hydrocarbon standard which is based on the most questionable of data and which is unneeded, since it duplicates the oxidant AAQS.
- an oxidant standard which is based on questionable data and is too strict on the basis of more recent data.

The above three standards can probably not be attained in many areas even in the absence of man.

- a nitrogen dioxide standard based on a study and an analytical method both of which have been repudiated by EPA.
- a sulfur dioxide standard much lower than any level demonstrated to have a health effect.
- a carbon monoxide standard based on data which has been vehemently attacked. Furthermore, this AAQS attempts to control exposure to CO by cleaning the general air even though 85 to 90% of CO exposure comes from smoking.

It is also of note that occupationally and experimentally exposed individuals have not shown health effects until concentrations ten or more times some of the standards have been reached. Furthermore, epidemiologic studies, specifically designed to determine if a relationship existed between air pollution and mortality, failed to find any.

There is another criticism of the way in which standards were and are set which has nothing to do with the lack of good scientific data or the zero-risk philosophy. The group which is charged with enforcing the standards also sets the standards; i.e. the police make the laws. Both the EPA and the ARB owe their existences to the fact that there are strict standards to enforce and they are given the right to set them as strict as they want. Furthermore, if the AAQS are violated, they are the prosecuting attorney, jury, and judge rolled into one. It is difficult to imagine the EPA or ARB saying that the air pollution problem is less serious than everyone has been led to believe and suggesting that their budgets be cut in half.

5. The real objective of an air quality maintenance plan should be to achieve a degree of air cleanliness which, in balance with other social and economic factors, will maximize human satisfaction.



It is necessary to have some yardstick against which to measure whether some action to control the environment is "good" or "bad". This yardstick is called an objective and without it the terms "good" and "bad" have no meaning. Is it "bad" to damage trees with air pollution, but "good" to cut down trees to build houses for the poor? Is it "bad" to destroy the snail darter (a small fish) by building a dam to increase the food supply, but "good" to slaughter cattle for beefsteak? Without an objective there is no rational way to decide whether an air quality maintenance plan is worthwhile.

The ecological hypochondriacs want to judge whether an action is "good" or "bad" in terms of some uncorrupted state of nature to which we should return. This is nonsense; such a state never existed. What is loosely referred to as "nature" was undergoing continuous and violent change before any living thing, plant or animal, was on the earth. Judging "good" or "bad" against such a standard is not logical.

Much of the environmental literature implies that man alone tries to change the environment and that this is the cause of all the trouble. The fact is that every living thing has always tried (and still does try) to change the environment to its own benefit; the species alive today have at least partially succeeded. Man is only different in that he has learned to make profound changes and has recently discovered that some may not be to his benefit.

Since man by existing is going to change the environment (to his benefit, if he is rational) and since there is no original yardstick against which to measure the value of the changes, what yardstick should be chosen? We should choose the same objective for managing the environment (air quality) that we have chosen for all other laws and rules designed to manage society. The objective is to maximize human satisfaction. Our laws and rules can be described as mutual coercion, mutually agreed upon, for mutual benefit; not for individual benefit, but for mutual benefit.

In specific terms the objective should be a level of pollution control which maximizes human satisfaction in balance with other things in the environment which also contribute to human satisfaction - such things as jobs, schools and hospitals for example. This constitutes a logical basis for deciding whether a control action is "good" or "bad". An action is good or bad relative to some alternative action depending upon whether it contributes more or less to human satisfaction in the Bay Area per unit of productive effort. It is now obvious that the stated objective for the AQMP, "attain and maintain the AAQS", is not an objective; it is a means to an end. If it will increase human satisfaction more than other actions requiring the same effort, it should be implemented; if it will not, it should be rejected or changed. Stated in other words, if attaining the present air standards in the Bay Area will increase human satisfaction more than other actions bought with the same effort, they are correct standards; if attaining them will not, they are the wrong standards for the Bay Area. We now also have a method of judging whether a standard is correct.

Proposing an objective which accepts as a possibility changing the present standards is heresy in some circles. It will be immediately attacked with the phrase "you can't take risks where health is involved", which for some peculiar reason applies only to risks connected with air pollution. The phrase is, of course, nonsense. Risks with health are taken every time surgery is performed, every time you mingle with a crowd during flu season, every time you drive, every time you fly in a jet (radiation, not crash risk) and every time you smoke or are in a closed space with smokers. These risks are taken because we believe that what we would give up to avoid the risks is too much compared to what we might lose by taking the risks. We do not have a zero-risk society and no one has suggested that we pay the price for one in any human endeavor, including the protection of health, except for the single case of air pollution.

The above objective will also be criticized as advocating throwing all living things other than man on the trash heap. It doesn't,



because a real understanding of the environment as a complicated intertwined network will lead to the conclusion that it is to man's benefit, material as well as aesthetic, to limit the pollution of the environment.

If there were no other arguments for accepting this objective, one would stand alone. It is the objective which the public will eventually demand when they realize that no others can be logically supported and when they realize that the ones currently offered are not true objectives. The present air standards and all of the environmental legislation can be justified only if it can be shown that they maximize human satisfaction.

6. It is possible to set standards for the Bay Area which will achieve a reasonable balance among all of the factors which contribute to human satisfaction, including air which is healthful and pleasant to breathe.

The justification given in the AQMP for its stringent control measures is that the air in the Bay Area is unhealthy at times, since the present standards are exceeded once in a while. The truth of this statement will be examined.

AAQS are always referred to as "health related" or "set to protect public health" and the air quality is described in terms of "how many times last month the health-related standard was exceeded". The continual repetition of these phrases has convinced the public of the gross misconception that health is endangered when a standard is exceeded. This is the misconception repeated in the AQMP as justification for strict controls.

Instead of being a "danger level", the value of a present standard is a zero-risk level for three reasons, all of which were intentionally included by EPA when the standards were set. First, each one was set at a value below the point which available data indicated to be the threshold for effects on health. Second, this threshold was defined

as the threshold for the most sensitive groups. Third, each standard contained a large margin of safety because the data were not reliable. Consequently, health is not endangered just because one of the present standards is exceeded; these standards are set at zero-risk or safe levels of pollutants.

Finally, the number of times a standard is exceeded is a poor measure of air quality, regardless of the value of the standard. A simple average of the highest hourly readings each day is a better, though not the best, measure of air quality.

Even though health is not endangered just because a standard is exceeded, it would still be possible for the air in the Bay Area to be unhealthy if the standards were exceeded frequently by large amounts. Data taken from the BAAPCD monthly reports for the 7-month period of April to October 1977 show that this is not true.

Carbon Monoxide. The Federal 1-hour and the State 1 and 12-hour standards were not exceeded during the entire period. The Federal 8-hour standard was exceeded once in October and 3 times in April by very small amounts.

Nitrogen Dioxide. The State 1-hour standard of 0.25ppm was exceeded once in 7 months by 0.01ppm; the reading was 0.26ppm.

Sulfur Dioxide. No excesses of either the Federal or very strict State 24-hour standards were recorded. A ground-level station designed to read discharges from a point source recorded one violation of the State 1-hour standard.

Particulate Matter. The Federal health standard was never exceeded. The strict State standard of 100 micrograms per cubic meter was exceeded on 13 days out of 214. On 5 of these days the maximum was less than 110 and on 11 days the maximum was less than 130.

Oxidant. The Federal Standard was violated on 33 days and the State one on 16 days. The difference between 33 and 16 shows that the Federal standard was not exceeded by much, since the Federal AAQS is 0.08 ppm and the State one is 0.10ppm. The highest hourly value recorded during the 7 months was 0.17ppm, less than the level at which the State episode plan calls for a warning to the most sensitive groups.



The monthly averages of the highest hourly readings recorded at each station on each day never exceeded one-half the Federal standard. Note: these are not average oxidant levels, which would be even lower; these are averages of the highest readings each day.

Now that it is clear that the present standards are set at zero-risk levels and that the air quality in the Bay Area is at or near these safe levels, the last psychological barrier to designing a rational air quality management plan has been removed. A rational plan is one in which the objective, maximizing human satisfaction, sets the air quality standards rather than letting arbitrary and questionable standards determine the objective. Such a plan can be designed, but political action through Congress is essential, if the Bay Area is to be permitted such rational behavior.

A rational plan can be designed, if the truth in the form of four facts is faced directly. These facts are

1. The present air quality standards cannot be attained and maintained in the Bay Area without limiting the growth at or near the present size.
2. The present standards are not essential for the protection of health. They are not sacred; actually they have the weakest foundation of any idols at whose feet an entire nation has ever worshipped.
3. Standards should be selected which maximize human satisfaction when the value of reasonably clean air is balanced with all the other items which also make up a good environment.
4. Any air quality standards, regardless of their exact values, become a no-growth rule at some point. Different standards than the present ones will change the point at which growth in the Bay Area must be limited, but will not eliminate the fact that some limit on growth is eventually necessary to prevent a serious decrease in the quality of the environment.

Item #1 was discussed at the beginning, but a couple of reminders are in order. The three actions which are predicted in the AQMP to

contribute the most toward attaining the standards are all growth-limiting tools. Two of them, New and Indirect Source Review, were specifically identified as such in the AQMP. The third one, BACT, would limit growth by putting Bay Area industries at a competitive disadvantage and by diverting capital from other activities such as housing. Both of these were stated to be results of BACT in EMTF documents; both would reduce jobs; i.e., limit growth.

Item #2 has just been discussed in detail and the discussion of Item #3 will be postponed until after a few words about Item #4. It is sometimes said that improvements in technology will eliminate the reality of no-growth at some point. This is not correct. First, there is the point made in the last paragraph; technological control carried to the extreme becomes growth limiting. Second, large quantities of energy in various forms (food, electricity, gasoline, materials) are needed to support our standard of living. No technology will ever produce these things with zero waste (pollutants) per unit produced. Hence, if enough of these items are produced enough waste will be produced to exceed the capacity of the Bay Area air basin.

Item #3 will be criticized on the basis that it advocates ignoring the health of the most sensitive people. This is not true; Item #3 really advocates spending our effort where it will do the most good.

The AQMP estimated the annual cost of meeting the oxidant standard at \$400 million and justified this expenditure on the basis that it is necessary to protect the health of some people. Questions which should be answered in designing a rational air quality management plan must include

- would \$400 million per year spent on medical research on asthma, heart disease and emphysema or on air pollution control buy more protection for the sensitive people?
- would \$400 million spent on child health care centers or on air pollution control buy more improvement in public health?



- should the Bay Area spend more per year on air pollution control than the estimated nationwide annual health cost due to air pollution; estimated between \$62 and \$311 million?
- would it accomplish more with less effort to equip every Bay Area residence of a sensitive person with a simple filter which would reduce the oxidant concentration by 90%? This could certainly be done for a one-time cost less than \$400 million.

If the reason for air pollution control is to reduce exposure to carbon monoxide (CO), another interesting comparison is available. It has been estimated that 85 to 90% of the total exposure of the population to CO comes from smoking and that the annual nationwide health cost due to cigarette smoking is \$4.23 billion. This compared to the annual nationwide health cost due to air pollution of \$62 to \$311 million raises the question

If the purpose is to protect health, is the effort devoted to air pollution control being spent in the right place?

#### EPILOGUE

Yes, if we face the truth directly it will be possible to develop an air quality plan for the Bay Area which will maximize human satisfaction and not cost \$400 million per year. If facing the truth is too unpleasant, there is, of course, another solution. We can continue to swallow the tranquilizers, which are labeled AQMP and off-set rule and are furnished by the EPA, until the inevitable day when reality springs the trap and drops us feet foremost into empty space.

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APPENDIX 2.—ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD  
PACIFIC GAS AND ELECTRIC COMPANY

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June 22, 1978

Congressman Leo J. Ryan  
1720 South Amphlett Boulevard, Suite 219  
San Mateo, California 94402

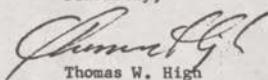
Dear Congressman Ryan:

Thank you for your letter of June 15, 1978, inviting Malcolm A. MacKillop, Vice-President, Governmental Relations, to appear as a witness on June 24 at the San Francisco hearings on the Environmental Management Plan being conducted by the Environment, Energy, and Natural Resources Subcommittee of the House Government Operations Committee.

As Ralph B. Dewey has already discussed with David Schuenke of your Washington staff, Mr. MacKillop is currently out of the state and will therefore be unavailable to appear. However, we understand that Angelo Siracusa of the Bay Area Council will be testifying on June 23. The views of the Bay Area Council, of which we are a member, will substantially represent those of the Pacific Gas and Electric Company.

Thank you for this opportunity to appear before your Subcommittee.

Sincerely,



Thomas W. High  
Administrative Assistant,  
Vice President, Governmental  
Relations

TWH:scu

cc: Angelo Siracusa  
Ralph B. Dewey

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